

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 6049  
OFFERED BY MR. RANGEL OF NEW YORK**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE, ETC.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
3 “Energy and Tax Extenders Act of 2008”.

4 (b) **REFERENCE.**—Except as otherwise expressly pro-  
5 vided, whenever in this Act an amendment or repeal is  
6 expressed in terms of an amendment to, or repeal of, a  
7 section or other provision, the reference shall be consid-  
8 ered to be made to a section or other provision of the In-  
9 ternal Revenue Code of 1986.

10 (c) **TABLE OF CONTENTS.**—The table of contents for  
11 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—ENERGY TAX INCENTIVES

Subtitle A—Energy Production Incentives

PART I—RENEWABLE ENERGY INCENTIVES

Sec. 101. Renewable energy credit.

Sec. 102. Production credit for electricity produced from marine renewables.

Sec. 103. Energy credit.

Sec. 104. Credit for residential energy efficient property.

Sec. 105. Special rule to implement FERC and State electric restructuring policy.

Sec. 106. New clean renewable energy bonds.

## PART II—CARBON MITIGATION PROVISIONS

- Sec. 111. Expansion and modification of advanced coal project investment credit.
- Sec. 112. Expansion and modification of coal gasification investment credit.
- Sec. 113. Temporary increase in coal excise tax.
- Sec. 114. Special rules for refund of the coal excise tax to certain coal producers and exporters.
- Sec. 115. Carbon audit of the tax code.

## Subtitle B—Transportation and Domestic Fuel Security Provisions

- Sec. 121. Credit for production of cellulosic biofuel.
- Sec. 122. Inclusion of cellulosic biofuel in bonus depreciation for biomass ethanol plant property.
- Sec. 123. Credits for biodiesel and renewable diesel.
- Sec. 124. Modification of alcohol credit.
- Sec. 125. Calculation of volume of alcohol for fuel credits.
- Sec. 126. Clarification that credits for fuel are designed to provide an incentive for United States production.
- Sec. 127. Credit for new qualified plug-in electric drive motor vehicles.
- Sec. 128. Exclusion from heavy truck tax for idling reduction units and advanced insulation.
- Sec. 129. Restructuring of New York Liberty Zone tax credits.
- Sec. 130. Transportation fringe benefit to bicycle commuters.
- Sec. 131. Alternative fuel vehicle refueling property credit.
- Sec. 132. Comprehensive study of biofuels.

## Subtitle C—Energy Conservation and Efficiency Provisions

- Sec. 141. Qualified energy conservation bonds.
- Sec. 142. Credit for nonbusiness energy property.
- Sec. 143. Energy efficient commercial buildings deduction.
- Sec. 144. Modifications of energy efficient appliance credit for appliances produced after 2007.
- Sec. 145. Accelerated recovery period for depreciation of smart meters and smart grid systems.
- Sec. 146. Qualified green building and sustainable design projects.

## TITLE II—ONE-YEAR EXTENSION OF TEMPORARY PROVISIONS

## Subtitle A—Extensions Primarily Affecting Individuals

- Sec. 201. Deduction for State and local sales taxes.
- Sec. 202. Deduction of qualified tuition and related expenses.
- Sec. 203. Treatment of certain dividends of regulated investment companies.
- Sec. 204. Qualified conservation contributions.
- Sec. 205. Tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 206. Deduction for certain expenses of elementary and secondary school teachers.
- Sec. 207. Election to include combat pay as earned income for purposes of earned income tax credit.
- Sec. 208. Modification of mortgage revenue bonds for veterans.
- Sec. 209. Distributions from retirement plans to individuals called to active duty.

- Sec. 210. Stock in RIC for purposes of determining estates of nonresidents not citizens.
- Sec. 211. Qualified investment entities.
- Sec. 212. Exclusion of amounts received under qualified group legal services plans.

#### Subtitle B—Extensions Primarily Affecting Businesses

- Sec. 221. Research credit.
- Sec. 222. Indian employment credit.
- Sec. 223. New markets tax credit.
- Sec. 224. Railroad track maintenance.
- Sec. 225. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.
- Sec. 226. Seven-year cost recovery period for motorsports racing track facility.
- Sec. 227. Accelerated depreciation for business property on Indian reservation.
- Sec. 228. Expensing of environmental remediation costs.
- Sec. 229. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 230. Modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 231. Qualified zone academy bonds.
- Sec. 232. Tax incentives for investment in the District of Columbia.
- Sec. 233. Economic development credit for American Samoa.
- Sec. 234. Enhanced charitable deduction for contributions of food inventory.
- Sec. 235. Enhanced charitable deduction for contributions of book inventory to public schools.
- Sec. 236. Enhanced deduction for qualified computer contributions.
- Sec. 237. Basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 238. Work opportunity tax credit for Hurricane Katrina employees.
- Sec. 239. Subpart F exception for active financing income.
- Sec. 240. Look-thru rule for related controlled foreign corporations.
- Sec. 241. Expensing for certain qualified film and television productions.

#### Subtitle C—Other Extensions

- Sec. 251. Authority to disclose information related to terrorist activities made permanent.
- Sec. 252. Authority for undercover operations made permanent.
- Sec. 253. Authority to disclose return information for certain veterans programs made permanent.
- Sec. 254. Increase in limit on cover over of rum excise tax to Puerto Rico and the Virgin Islands.
- Sec. 255. Parity in the application of certain limits to mental health benefits.

### TITLE I—ADDITIONAL TAX RELIEF

#### Subtitle A—Individual Tax Relief

- Sec. 301. Additional standard deduction for real property taxes for non-itemizers.
- Sec. 302. Refundable child credit.
- Sec. 303. Increase of AMT refundable credit amount for individuals with long-term unused credits for prior year minimum tax liability, etc.

#### Subtitle B—Business Related Provisions

Sec. 311. Uniform treatment of attorney-advanced expenses and court costs in contingency fee cases.

Sec. 312. Provisions related to film and television productions.

Subtitle C—Modification of Penalty on Understatement of Taxpayer’s Liability by Tax Return Preparer

Sec. 321. Modification of penalty on understatement of taxpayer’s liability by tax return preparer.

Subtitle D—Extension and Expansion of Certain GO Zone Incentives

Sec. 331. Certain GO Zone incentives.

TITLE II—REVENUE PROVISIONS

Sec. 401. Nonqualified deferred compensation from certain tax indifferent parties.

Sec. 402. Delay in application of worldwide allocation of interest.

Sec. 403. Time for payment of corporate estimated taxes.

1                   **TITLE I—ENERGY TAX**  
2                                   **INCENTIVES**  
3                   **Subtitle A—Energy Production**  
4                                   **Incentives**

5                   **PART I—RENEWABLE ENERGY INCENTIVES**

6   **SEC. 101. RENEWABLE ENERGY CREDIT.**

7                   (a) **EXTENSION OF CREDIT.—**

8                                   (1) **1-YEAR EXTENSION FOR WIND FACILI-**  
9                   **TIES.—**Paragraph (1) of section 45(d) is amended  
10                   by striking “January 1, 2009” and inserting “Janu-

11                   ary 1, 2010”.

12                                   (2) **3-YEAR EXTENSION FOR CERTAIN OTHER**  
13                   **FACILITIES.—**Each of the following provisions of  
14                   section 45(d) is amended by striking “January 1,  
15                   2009” and inserting “January 1, 2012”:

16                                   (A) **Clauses (i) and (ii) of paragraph**  
17                   **(2)(A).**

1 (B) Clauses (i)(I) and (ii) of paragraph  
2 (3)(A).

3 (C) Paragraph (4).

4 (D) Paragraph (5).

5 (E) Paragraph (6).

6 (F) Paragraph (7).

7 (G) Subparagraphs (A) and (B) of para-  
8 graph (9).

9 (b) MODIFICATION OF CREDIT PHASEOUT.—

10 (1) REPEAL OF PHASEOUT.—Subsection (b) of  
11 section 45 is amended—

12 (A) by striking paragraph (1), and

13 (B) by striking “the 8 cent amount in  
14 paragraph (1),” in paragraph (2) thereof.

15 (2) LIMITATION BASED ON INVESTMENT IN FA-  
16 CILITY.—Subsection (b) of section 45 is amended by  
17 inserting before paragraph (2) the following new  
18 paragraph:

19 “(1) LIMITATION BASED ON INVESTMENT IN  
20 FACILITY.—

21 “(A) IN GENERAL.—In the case of any  
22 qualified facility originally placed in service  
23 after December 31, 2009, the amount of the  
24 credit determined under subsection (a) for any  
25 taxable year with respect to electricity produced

1 at such facility shall not exceed the product  
2 of—

3 “(i) the applicable percentage with re-  
4 spect to such facility, multiplied by

5 “(ii) the eligible basis of such facility.

6 “(B) CARRYFORWARD OF UNUSED LIMITA-  
7 TION AND EXCESS CREDIT.—

8 “(i) UNUSED LIMITATION.—If the  
9 limitation imposed under subparagraph (A)  
10 with respect to any facility for any taxable  
11 year exceeds the prelimitation credit for  
12 such facility for such taxable year, the lim-  
13 itation imposed under subparagraph (A)  
14 with respect to such facility for the suc-  
15 ceeding taxable year shall be increased by  
16 the amount of such excess.

17 “(ii) EXCESS CREDIT.—If the  
18 prelimitation credit with respect to any fa-  
19 cility for any taxable year exceeds the limi-  
20 tation imposed under subparagraph (A)  
21 with respect to such facility for such tax-  
22 able year, the credit determined under sub-  
23 section (a) with respect to such facility for  
24 the succeeding taxable year (determined  
25 before the application of subparagraph (A)

1 for such succeeding taxable year) shall be  
2 increased by the amount of such excess.  
3 With respect to any facility, no amount  
4 may be carried forward under this clause  
5 to any taxable year beginning after the 10-  
6 year period described in subsection  
7 (a)(2)(A)(ii) with respect to such facility.

8 “(iii) PRELIMINATION CREDIT.—The  
9 term ‘prelimination credit’ with respect to  
10 any facility for a taxable year means the  
11 credit determined under subsection (a)  
12 with respect to such facility for such tax-  
13 able year, determined without regard to  
14 subparagraph (A) and after taking into ac-  
15 count any increase for such taxable year  
16 under clause (ii).

17 “(C) APPLICABLE PERCENTAGE.—For  
18 purposes of this paragraph—

19 “(i) IN GENERAL.—The term ‘applica-  
20 ble percentage’ means, with respect to any  
21 facility, the appropriate percentage pre-  
22 scribed by the Secretary for the month in  
23 which such facility is originally placed in  
24 service.

1           “(ii) METHOD OF PRESCRIBING AP-  
2           PLICABLE PERCENTAGES.—The applicable  
3           percentages prescribed by the Secretary for  
4           any month under clause (i) shall be per-  
5           centages which yield over a 10-year period  
6           amounts of limitation under subparagraph  
7           (A) which have a present value equal to 35  
8           percent of the eligible basis of the facility.

9           “(iii) METHOD OF DISCOUNTING.—  
10          The present value under clause (ii) shall be  
11          determined—

12                 “(I) as of the last day of the 1st  
13                 year of the 10-year period referred to  
14                 in clause (ii),

15                 “(II) by using a discount rate  
16                 equal to the greater of 110 percent of  
17                 the Federal long-term rate as in effect  
18                 under section 1274(d) for the month  
19                 preceding the month for which the ap-  
20                 plicable percentage is being pre-  
21                 scribed, or 4.5 percent, and

22                 “(III) by taking into account the  
23                 limitation under subparagraph (A) for  
24                 any year on the last day of such year.

1                   “(D) ELIGIBLE BASIS.—For purposes of  
2                   this paragraph—

3                   “(i) IN GENERAL.—The term ‘eligible  
4                   basis’ means, with respect to any facility,  
5                   the sum of—

6                   “(I) the basis of such facility de-  
7                   termined as of the time that such fa-  
8                   cility is originally placed in service,  
9                   and

10                  “(II) the portion of the basis of  
11                  any shared qualified property which is  
12                  properly allocable to such facility  
13                  under clause (ii).

14                  “(ii) RULES FOR ALLOCATION.—For  
15                  purposes of subclause (II) of clause (i), the  
16                  basis of shared qualified property shall be  
17                  allocated among all qualified facilities  
18                  which are projected to be placed in service  
19                  and which require utilization of such prop-  
20                  erty in proportion to projected generation  
21                  from such facilities.

22                  “(iii) SHARED QUALIFIED PROP-  
23                  ERTY.—For purposes of this paragraph,  
24                  the term ‘shared qualified property’ means,

1 with respect to any facility, any property  
2 described in section 168(e)(3)(B)(vi)—

3 “(I) which a qualified facility will  
4 require for utilization of such facility,  
5 and

6 “(II) which is not a qualified fa-  
7 cility.

8 “(iv) SPECIAL RULE RELATING TO  
9 GEOTHERMAL FACILITIES.—In the case of  
10 any qualified facility using geothermal en-  
11 ergy to produce electricity, the basis of  
12 such facility for purposes of this paragraph  
13 shall be determined as though intangible  
14 drilling and development costs described in  
15 section 263(c) were capitalized rather than  
16 expensed.

17 “(E) SPECIAL RULE FOR FIRST AND LAST  
18 YEAR OF CREDIT PERIOD.—In the case of any  
19 taxable year any portion of which is not within  
20 the 10-year period described in subsection  
21 (a)(2)(A)(ii) with respect to any facility, the  
22 amount of the limitation under subparagraph  
23 (A) with respect to such facility shall be re-  
24 duced by an amount which bears the same ratio  
25 to the amount of such limitation (determined

1 without regard to this subparagraph) as such  
2 portion of the taxable year which is not within  
3 such period bears to the entire taxable year.

4 “(F) ELECTION TO TREAT ALL FACILITIES  
5 PLACED IN SERVICE IN A YEAR AS 1 FACIL-  
6 ITY.—At the election of the taxpayer, all quali-  
7 fied facilities which are part of the same project  
8 and which are placed in service during the same  
9 calendar year shall be treated for purposes of  
10 this section as 1 facility which is placed in serv-  
11 ice at the mid-point of such year or the first  
12 day of the following calendar year.”.

13 (c) TRASH FACILITY CLARIFICATION.—Paragraph  
14 (7) of section 45(d) is amended—

15 (1) by striking “facility which burns” and in-  
16 sserting “facility (other than a facility described in  
17 paragraph (6)) which uses”, and

18 (2) by striking “COMBUSTION”.

19 (d) EXPANSION OF BIOMASS FACILITIES.—

20 (1) OPEN-LOOP BIOMASS FACILITIES.—Para-  
21 graph (3) of section 45(d) is amended by redesign-  
22 ating subparagraph (B) as subparagraph (C) and  
23 by inserting after subparagraph (A) the following  
24 new subparagraph:

1           “(B) EXPANSION OF FACILITY.—Such  
2           term shall include a new unit placed in service  
3           after the date of the enactment of this subpara-  
4           graph in connection with a facility described in  
5           subparagraph (A), but only to the extent of the  
6           increased amount of electricity produced at the  
7           facility by reason of such new unit.”.

8           (2) CLOSED-LOOP BIOMASS FACILITIES.—Para-  
9           graph (2) of section 45(d) is amended by redesignig-  
10          nating subparagraph (B) as subparagraph (C) and  
11          inserting after subparagraph (A) the following new  
12          subparagraph:

13           “(B) EXPANSION OF FACILITY.—Such  
14           term shall include a new unit placed in service  
15           after the date of the enactment of this subpara-  
16           graph in connection with a facility described in  
17           subparagraph (A)(i), but only to the extent of  
18           the increased amount of electricity produced at  
19           the facility by reason of such new unit.”.

20          (e) SALES OF NET ELECTRICITY TO REGULATED  
21          PUBLIC UTILITIES TREATED AS SALES TO UNRELATED  
22          PERSONS.—Paragraph (4) of section 45(e) is amended by  
23          adding at the end the following new sentence: “The net  
24          amount of electricity sold by any taxpayer to a regulated

1 public utility (as defined in section 7701(a)(33)) shall be  
2 treated as sold to an unrelated person.”.

3 (f) MODIFICATION OF RULES FOR HYDROPOWER  
4 PRODUCTION.—Subparagraph (C) of section 45(c)(8) is  
5 amended to read as follows:

6 “(C) NONHYDROELECTRIC DAM.—For pur-  
7 poses of subparagraph (A), a facility is de-  
8 scribed in this subparagraph if—

9 “(i) the hydroelectric project installed  
10 on the nonhydroelectric dam is licensed by  
11 the Federal Energy Regulatory Commis-  
12 sion and meets all other applicable environ-  
13 mental, licensing, and regulatory require-  
14 ments,

15 “(ii) the nonhydroelectric dam was  
16 placed in service before the date of the en-  
17 actment of this paragraph and operated  
18 for flood control, navigation, or water sup-  
19 ply purposes and did not produce hydro-  
20 electric power on the date of the enactment  
21 of this paragraph, and

22 “(iii) the hydroelectric project is oper-  
23 ated so that the water surface elevation at  
24 any given location and time that would  
25 have occurred in the absence of the hydro-

1 electric project is maintained, subject to  
2 any license requirements imposed under  
3 applicable law that change the water sur-  
4 face elevation for the purpose of improving  
5 environmental quality of the affected wa-  
6 terway.

7 The Secretary, in consultation with the Federal  
8 Energy Regulatory Commission, shall certify if  
9 a hydroelectric project licensed at a nonhydro-  
10 electric dam meets the criteria in clause (iii).  
11 Nothing in this section shall affect the stand-  
12 ards under which the Federal Energy Regu-  
13 latory Commission issues licenses for and regu-  
14 lates hydropower projects under part I of the  
15 Federal Power Act.”.

16 (g) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as otherwise pro-  
18 vided in this subsection, the amendments made by  
19 this section shall apply to property originally placed  
20 in service after December 31, 2008.

21 (2) REPEAL OF CREDIT PHASEOUT.—The  
22 amendments made by subsection (b)(1) shall apply  
23 to taxable years ending after December 31, 2008.

24 (3) LIMITATION BASED ON INVESTMENT IN FA-  
25 CILITY.—The amendment made by subsection (b)(2)

1 shall apply to property originally placed in service  
2 after December 31, 2009.

3 (4) TRASH FACILITY CLARIFICATION; SALES TO  
4 RELATED REGULATED PUBLIC UTILITIES.—The  
5 amendments made by subsections (c) and (e) shall  
6 apply to electricity produced and sold after the date  
7 of the enactment of this Act.

8 (5) EXPANSION OF BIOMASS FACILITIES.—The  
9 amendments made by subsection (d) shall apply to  
10 property placed in service after the date of the en-  
11 actment of this Act.

12 **SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRO-**  
13 **DUCTION FROM MARINE RENEWABLES.**

14 (a) IN GENERAL.—Paragraph (1) of section 45(c) is  
15 amended by striking “and” at the end of subparagraph  
16 (G), by striking the period at the end of subparagraph  
17 (H) and inserting “, and”, and by adding at the end the  
18 following new subparagraph:

19 “(I) marine and hydrokinetic renewable en-  
20 ergy.”.

21 (b) MARINE RENEWABLES.—Subsection (c) of sec-  
22 tion 45 is amended by adding at the end the following  
23 new paragraph:

24 “(10) MARINE AND HYDROKINETIC RENEW-  
25 ABLE ENERGY.—

1           “(A) IN GENERAL.—The term ‘marine and  
2 hydrokinetic renewable energy’ means energy  
3 derived from—

4           “(i) waves, tides, and currents in  
5 oceans, estuaries, and tidal areas,

6           “(ii) free flowing water in rivers,  
7 lakes, and streams,

8           “(iii) free flowing water in an irriga-  
9 tion system, canal, or other man-made  
10 channel, including projects that utilize non-  
11 mechanical structures to accelerate the  
12 flow of water for electric power production  
13 purposes, or

14           “(iv) differentials in ocean tempera-  
15 ture (ocean thermal energy conversion).

16           “(B) EXCEPTIONS.—Such term shall not  
17 include any energy which is derived from any  
18 source which utilizes a dam, diversionary struc-  
19 ture (except as provided in subparagraph  
20 (A)(iii)), or impoundment for electric power  
21 production purposes.”.

22           (c) DEFINITION OF FACILITY.—Subsection (d) of  
23 section 45 is amended by adding at the end the following  
24 new paragraph:

1           “(11) MARINE AND HYDROKINETIC RENEW-  
2           ABLE ENERGY FACILITIES.—In the case of a facility  
3           producing electricity from marine and hydrokinetic  
4           renewable energy, the term ‘qualified facility’ means  
5           any facility owned by the taxpayer—

6                   “(A) which has a nameplate capacity rat-  
7                   ing of at least 150 kilowatts, and

8                   “(B) which is originally placed in service  
9                   on or after the date of the enactment of this  
10                  paragraph and before January 1, 2012.”.

11          (d) CREDIT RATE.—Subparagraph (A) of section  
12          45(b)(4) is amended by striking “or (9)” and inserting  
13          “(9), or (11)”.

14          (e) COORDINATION WITH SMALL IRRIGATION  
15          POWER.—Paragraph (5) of section 45(d), as amended by  
16          section 101, is amended by striking “January 1, 2012”  
17          and inserting “the date of the enactment of paragraph  
18          (11)”.

19          (f) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply to electricity produced and sold  
21          after the date of the enactment of this Act, in taxable  
22          years ending after such date.

23          **SEC. 103. ENERGY CREDIT.**

24          (a) EXTENSION OF CREDIT.—

1           (1) SOLAR ENERGY PROPERTY.—Paragraphs  
2           (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each  
3           amended by striking “January 1, 2009” and insert-  
4           ing “January 1, 2015”.

5           (2) FUEL CELL PROPERTY.—Subparagraph (E)  
6           of section 48(c)(1) is amended by striking “Decem-  
7           ber 31, 2008” and inserting “December 31, 2014”.

8           (3) MICROTURBINE PROPERTY.—Subparagraph  
9           (E) of section 48(c)(2) is amended by striking “De-  
10          cember 31, 2008” and inserting “December 31,  
11          2014”.

12          (b) ALLOWANCE OF ENERGY CREDIT AGAINST AL-  
13          TERNATIVE MINIMUM TAX.—Subparagraph (B) of section  
14          38(c)(4) is amended by striking “and” at the end of clause  
15          (iii), by redesignating clause (iv) as clause (v), and by in-  
16          serting after clause (iii) the following new clause:

17                           “(iv) the credit determined under sec-  
18                           tion 46 to the extent that such credit is at-  
19                           tributable to the energy credit determined  
20                           under section 48, and”.

21          (c) ENERGY CREDIT FOR COMBINED HEAT AND  
22          POWER SYSTEM PROPERTY.—

23           (1) IN GENERAL.—Section 48(a)(3)(A) (defin-  
24          ing energy property) is amended by striking “or” at  
25          the end of clause (iii), by inserting “or” at the end

1 of clause (iv), and by adding at the end the following  
2 new clause:

3 “(v) combined heat and power system  
4 property,”.

5 (2) COMBINED HEAT AND POWER SYSTEM  
6 PROPERTY.—Section 48 is amended by adding at  
7 the end the following new subsection:

8 “(d) COMBINED HEAT AND POWER SYSTEM PROP-  
9 erty.—For purposes of subsection (a)(3)(A)(v)—

10 “(1) COMBINED HEAT AND POWER SYSTEM  
11 PROPERTY.—The term ‘combined heat and power  
12 system property’ means property comprising a sys-  
13 tem—

14 “(A) which uses the same energy source  
15 for the simultaneous or sequential generation of  
16 electrical power, mechanical shaft power, or  
17 both, in combination with the generation of  
18 steam or other forms of useful thermal energy  
19 (including heating and cooling applications),

20 “(B) which produces—

21 “(i) at least 20 percent of its total  
22 useful energy in the form of thermal en-  
23 ergy which is not used to produce electrical  
24 or mechanical power (or combination  
25 thereof), and

1                   “(ii) at least 20 percent of its total  
2                   useful energy in the form of electrical or  
3                   mechanical power (or combination thereof),

4                   “(C) the energy efficiency percentage of  
5                   which exceeds 60 percent, and

6                   “(D) which is placed in service before Jan-  
7                   uary 1, 2015.

8                   “(2) LIMITATION.—

9                   “(A) IN GENERAL.—In the case of com-  
10                  bined heat and power system property with an  
11                  electrical capacity in excess of the applicable ca-  
12                  pacity placed in service during the taxable year,  
13                  the credit under subsection (a)(1) (determined  
14                  without regard to this paragraph) for such year  
15                  shall be equal to the amount which bears the  
16                  same ratio to such credit as the applicable ca-  
17                  pacity bears to the capacity of such property.

18                  “(B) APPLICABLE CAPACITY.—For pur-  
19                  poses of subparagraph (A), the term ‘applicable  
20                  capacity’ means 15 megawatts or a mechanical  
21                  energy capacity of more than 20,000 horse-  
22                  power or an equivalent combination of electrical  
23                  and mechanical energy capacities.

24                  “(C) MAXIMUM CAPACITY.—The term  
25                  ‘combined heat and power system property’

1 shall not include any property comprising a sys-  
2 tem if such system has a capacity in excess of  
3 50 megawatts or a mechanical energy capacity  
4 in excess of 67,000 horsepower or an equivalent  
5 combination of electrical and mechanical energy  
6 capacities.

7 “(3) SPECIAL RULES.—

8 “(A) ENERGY EFFICIENCY PERCENT-  
9 AGE.—For purposes of this subsection, the en-  
10 ergy efficiency percentage of a system is the  
11 fraction—

12 “(i) the numerator of which is the  
13 total useful electrical, thermal, and me-  
14 chanical power produced by the system at  
15 normal operating rates, and expected to be  
16 consumed in its normal application, and

17 “(ii) the denominator of which is the  
18 lower heating value of the fuel sources for  
19 the system.

20 “(B) DETERMINATIONS MADE ON BTU  
21 BASIS.—The energy efficiency percentage and  
22 the percentages under paragraph (1)(B) shall  
23 be determined on a Btu basis.

24 “(C) INPUT AND OUTPUT PROPERTY NOT  
25 INCLUDED.—The term ‘combined heat and

1 power system property' does not include prop-  
2 erty used to transport the energy source to the  
3 facility or to distribute energy produced by the  
4 facility.

5 “(4) SYSTEMS USING BIOMASS.—If a system is  
6 designed to use biomass (within the meaning of  
7 paragraphs (2) and (3) of section 45(e) without re-  
8 gard to the last sentence of paragraph (3)(A)) for at  
9 least 90 percent of the energy source—

10 “(A) paragraph (1)(C) shall not apply, but

11 “(B) the amount of credit determined  
12 under subsection (a) with respect to such sys-  
13 tem shall not exceed the amount which bears  
14 the same ratio to such amount of credit (deter-  
15 mined without regard to this paragraph) as the  
16 energy efficiency percentage of such system  
17 bears to 60 percent.”.

18 (d) INCREASE OF CREDIT LIMITATION FOR FUEL  
19 CELL PROPERTY.—Subparagraph (B) of section 48(e)(1)  
20 is amended by striking “\$500” and inserting “\$1,500”.

21 (e) PUBLIC UTILITY PROPERTY TAKEN INTO AC-  
22 COUNT.—

23 (1) IN GENERAL.—Paragraph (3) of section  
24 48(a) is amended by striking the second sentence  
25 thereof.

1 (2) CONFORMING AMENDMENTS.—

2 (A) Paragraph (1) of section 48(c) is  
3 amended by striking subparagraph (D) and re-  
4 designating subparagraph (E) as subparagraph  
5 (D).

6 (B) Paragraph (2) of section 48(c) is  
7 amended by striking subparagraph (D) and re-  
8 designating subparagraph (E) as subparagraph  
9 (D).

10 (f) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as otherwise pro-  
12 vided in this subsection, the amendments made by  
13 this section shall take effect on the date of the en-  
14 actment of this Act.

15 (2) ALLOWANCE AGAINST ALTERNATIVE MIN-  
16 IMUM TAX.—The amendments made by subsection  
17 (b) shall apply to credits determined under section  
18 46 of the Internal Revenue Code of 1986 in taxable  
19 years beginning after the date of the enactment of  
20 this Act and to carrybacks of such credits.

21 (3) COMBINED HEAT AND POWER AND FUEL  
22 CELL PROPERTY.—The amendments made by sub-  
23 sections (c) and (d) shall apply to periods after the  
24 date of the enactment of this Act, in taxable years  
25 ending after such date, under rules similar to the

1 rules of section 48(m) of the Internal Revenue Code  
2 of 1986 (as in effect on the day before the date of  
3 the enactment of the Revenue Reconciliation Act of  
4 1990).

5 (4) PUBLIC UTILITY PROPERTY.—The amend-  
6 ments made by subsection (e) shall apply to periods  
7 after February 13, 2008, in taxable years ending  
8 after such date, under rules similar to the rules of  
9 section 48(m) of the Internal Revenue Code of 1986  
10 (as in effect on the day before the date of the enact-  
11 ment of the Revenue Reconciliation Act of 1990).

12 **SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**  
13 **PROPERTY.**

14 (a) EXTENSION.—Section 25D(g) is amended by  
15 striking “December 31, 2008” and inserting “December  
16 31, 2014”.

17 (b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROP-  
18 erty.—

19 (1) IN GENERAL.—Section 25D(b)(1)(A) is  
20 amended by striking “\$2,000” and inserting  
21 “\$4,000”.

22 (2) CONFORMING AMENDMENT.—Section  
23 25D(e)(4)(A)(i) is amended by striking “\$6,667”  
24 and inserting “\$13,333”.

25 (c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

1           (1) IN GENERAL.—Section 25D(a) is amended  
2           by striking “and” at the end of paragraph (2), by  
3           striking the period at the end of paragraph (3) and  
4           inserting “, and”, and by adding at the end the fol-  
5           lowing new paragraph:

6           “(4) 30 percent of the qualified small wind en-  
7           ergy property expenditures made by the taxpayer  
8           during such year.”.

9           (2) LIMITATION.—Section 25D(b)(1) is amend-  
10          ed by striking “and” at the end of subparagraph  
11          (B), by striking the period at the end of subpara-  
12          graph (C) and inserting “, and”, and by adding at  
13          the end the following new subparagraph:

14          “(D) \$500 with respect to each half kilo-  
15          watt of capacity (not to exceed \$4,000) of wind  
16          turbines for which qualified small wind energy  
17          property expenditures are made.”.

18          (3) QUALIFIED SMALL WIND ENERGY PROP-  
19          ERTY EXPENDITURES.—

20          (A) IN GENERAL.—Section 25D(d) is  
21          amended by adding at the end the following  
22          new paragraph:

23          “(4) QUALIFIED SMALL WIND ENERGY PROP-  
24          ERTY EXPENDITURE.—The term ‘qualified small  
25          wind energy property expenditure’ means an expend-

1       iture for property which uses a wind turbine to gen-  
2       erate electricity for use in connection with a dwelling  
3       unit located in the United States and used as a resi-  
4       dence by the taxpayer.”.

5               (B)   NO   DOUBLE   BENEFIT.—Section  
6       45(d)(1) is amended by adding at the end the  
7       following new sentence: “Such term shall not  
8       include any facility with respect to which any  
9       qualified small wind energy property expendi-  
10      ture (as defined in subsection (d)(4) of section  
11      25D) is taken into account in determining the  
12      credit under such section.”.

13              (4)   MAXIMUM   EXPENDITURES   IN   CASE   OF  
14      JOINT   OCCUPANCY.—Section   25D(e)(4)(A)   is  
15      amended by striking “and” at the end of clause (ii),  
16      by striking the period at the end of clause (iii) and  
17      inserting “, and”, and by adding at the end the fol-  
18      lowing new clause:

19                      “(iv) \$1,667 in the case of each half  
20                      kilowatt of capacity (not to exceed  
21                      \$13,333) of wind turbines for which quali-  
22                      fied small wind energy property expendi-  
23                      tures are made.”.

24              (d)   CREDIT   FOR   GEOTHERMAL   HEAT   PUMP   SYS-  
25      TEMS.—

1           (1) IN GENERAL.—Section 25D(a), as amended  
2           by subsection (c), is amended by striking “and” at  
3           the end of paragraph (3), by striking the period at  
4           the end of paragraph (4) and inserting “, and”, and  
5           by adding at the end the following new paragraph:

6           “(5) 30 percent of the qualified geothermal  
7           heat pump property expenditures made by the tax-  
8           payer during such year.”.

9           (2) LIMITATION.—Section 25D(b)(1), as  
10          amended by subsection (c), is amended by striking  
11          “and” at the end of subparagraph (C), by striking  
12          the period at the end of subparagraph (D) and in-  
13          serting “, and”, and by adding at the end the fol-  
14          lowing new subparagraph:

15          “(E) \$2,000 with respect to any qualified  
16          geothermal heat pump property expenditures.”.

17          (3) QUALIFIED GEOTHERMAL HEAT PUMP  
18          PROPERTY EXPENDITURE.—Section 25D(d), as  
19          amended by subsection (c), is amended by adding at  
20          the end the following new paragraph:

21          “(5) QUALIFIED GEOTHERMAL HEAT PUMP  
22          PROPERTY EXPENDITURE.—

23          “(A) IN GENERAL.—The term ‘qualified  
24          geothermal heat pump property expenditure’  
25          means an expenditure for qualified geothermal

1 heat pump property installed on or in connec-  
2 tion with a dwelling unit located in the United  
3 States and used as a residence by the taxpayer.

4 “(B) QUALIFIED GEOTHERMAL HEAT  
5 PUMP PROPERTY.—The term ‘qualified geo-  
6 thermal heat pump property’ means any equip-  
7 ment which—

8 “(i) uses the ground or ground water  
9 as a thermal energy source to heat the  
10 dwelling unit referred to in subparagraph  
11 (A) or as a thermal energy sink to cool  
12 such dwelling unit, and

13 “(ii) meets the requirements of the  
14 Energy Star program which are in effect  
15 at the time that the expenditure for such  
16 equipment is made.”.

17 (4) MAXIMUM EXPENDITURES IN CASE OF  
18 JOINT OCCUPANCY.—Section 25D(e)(4)(A), as  
19 amended by subsection (c), is amended by striking  
20 “and” at the end of clause (iii), by striking the pe-  
21 riod at the end of clause (iv) and inserting “, and”,  
22 and by adding at the end the following new clause:

23 “(v) \$6,667 in the case of any quali-  
24 fied geothermal heat pump property ex-  
25 penditures.”.

1 (e) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
2 IMUM TAX.—

3 (1) IN GENERAL.—Subsection (c) of section  
4 25D is amended to read as follows:

5 “(c) LIMITATION BASED ON AMOUNT OF TAX;  
6 CARRYFORWARD OF UNUSED CREDIT.—

7 “(1) LIMITATION BASED ON AMOUNT OF  
8 TAX.—In the case of a taxable year to which section  
9 26(a)(2) does not apply, the credit allowed under  
10 subsection (a) for the taxable year shall not exceed  
11 the excess of—

12 “(A) the sum of the regular tax liability  
13 (as defined in section 26(b)) plus the tax im-  
14 posed by section 55, over

15 “(B) the sum of the credits allowable  
16 under this subpart (other than this section) and  
17 section 27 for the taxable year.

18 “(2) CARRYFORWARD OF UNUSED CREDIT.—

19 “(A) RULE FOR YEARS IN WHICH ALL  
20 PERSONAL CREDITS ALLOWED AGAINST REG-  
21 ULAR AND ALTERNATIVE MINIMUM TAX.—In  
22 the case of a taxable year to which section  
23 26(a)(2) applies, if the credit allowable under  
24 subsection (a) exceeds the limitation imposed by  
25 section 26(a)(2) for such taxable year reduced

1 by the sum of the credits allowable under this  
2 subpart (other than this section), such excess  
3 shall be carried to the succeeding taxable year  
4 and added to the credit allowable under sub-  
5 section (a) for such succeeding taxable year.

6 “(B) RULE FOR OTHER YEARS.—In the  
7 case of a taxable year to which section 26(a)(2)  
8 does not apply, if the credit allowable under  
9 subsection (a) exceeds the limitation imposed by  
10 paragraph (1) for such taxable year, such ex-  
11 cess shall be carried to the succeeding taxable  
12 year and added to the credit allowable under  
13 subsection (a) for such succeeding taxable  
14 year.”.

15 (2) CONFORMING AMENDMENTS.—

16 (A) Section 23(b)(4)(B) is amended by in-  
17 serting “and section 25D” after “this section”.

18 (B) Section 24(b)(3)(B) is amended by  
19 striking “and 25B” and inserting “, 25B, and  
20 25D”.

21 (C) Section 25B(g)(2) is amended by strik-  
22 ing “section 23” and inserting “sections 23 and  
23 25D”.

24 (D) Section 26(a)(1) is amended by strik-  
25 ing “and 25B” and inserting “25B, and 25D”.

1 (f) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by  
3 this section shall apply to taxable years beginning  
4 after December 31, 2007.

5 (2) APPLICATION OF EGTRRA SUNSET.—The  
6 amendments made by subparagraphs (A) and (B) of  
7 subsection (e)(2) shall be subject to title IX of the  
8 Economic Growth and Tax Relief Reconciliation Act  
9 of 2001 in the same manner as the provisions of  
10 such Act to which such amendments relate.

11 **SEC. 105. SPECIAL RULE TO IMPLEMENT FERC AND STATE**  
12 **ELECTRIC RESTRUCTURING POLICY.**

13 (a) EXTENSION FOR QUALIFIED ELECTRIC UTILI-  
14 TIES.—

15 (1) IN GENERAL.—Paragraph (3) of section  
16 451(i) is amended by inserting “(before January 1,  
17 2010, in the case of a qualified electric utility)”  
18 after “January 1, 2008”.

19 (2) QUALIFIED ELECTRIC UTILITY.—Subsection  
20 (i) of section 451 is amended by redesignating para-  
21 graphs (6) through (10) as paragraphs (7) through  
22 (11), respectively, and by inserting after paragraph  
23 (5) the following new paragraph:

24 “(6) QUALIFIED ELECTRIC UTILITY.—For pur-  
25 poses of this subsection, the term ‘qualified electric

1 utility’ means a person that, as of the date of the  
2 qualifying electric transmission transaction, is  
3 vertically integrated, in that it is both—

4 “(A) a transmitting utility (as defined in  
5 section 3(23) of the Federal Power Act (16  
6 U.S.C. 796(23))) with respect to the trans-  
7 mission facilities to which the election under  
8 this subsection applies, and

9 “(B) an electric utility (as defined in sec-  
10 tion 3(22) of the Federal Power Act (16 U.S.C.  
11 796(22))).”.

12 (b) EXTENSION OF PERIOD FOR TRANSFER OF  
13 OPERATIONAL CONTROL AUTHORIZED BY FERC.—  
14 Clause (ii) of section 451(i)(4)(B) is amended by striking  
15 “December 31, 2007” and inserting “the date which is  
16 4 years after the close of the taxable year in which the  
17 transaction occurs”.

18 (c) PROPERTY LOCATED OUTSIDE THE UNITED  
19 STATES NOT TREATED AS EXEMPT UTILITY PROP-  
20 erty.—Paragraph (5) of section 451(i) is amended by  
21 adding at the end the following new subparagraph:

22 “(C) EXCEPTION FOR PROPERTY LOCATED  
23 OUTSIDE THE UNITED STATES.—The term ‘ex-  
24 empt utility property’ shall not include any

1 property which is located outside the United  
2 States.”.

3 (d) EFFECTIVE DATES.—

4 (1) EXTENSION.—The amendments made by  
5 subsection (a) shall apply to transactions after De-  
6 cember 31, 2007.

7 (2) TRANSFERS OF OPERATIONAL CONTROL.—  
8 The amendment made by subsection (b) shall take  
9 effect as if included in section 909 of the American  
10 Jobs Creation Act of 2004.

11 (3) EXCEPTION FOR PROPERTY LOCATED OUT-  
12 SIDE THE UNITED STATES.—The amendment made  
13 by subsection (c) shall apply to transactions after  
14 the date of the enactment of this Act.

15 **SEC. 106. NEW CLEAN RENEWABLE ENERGY BONDS.**

16 (a) IN GENERAL.—Part IV of subchapter A of chap-  
17 ter 1 is amended by adding at the end the following new  
18 subpart:

19 **“Subpart I—Qualified Tax Credit Bonds**

“Sec. 54A. Credit to holders of qualified tax credit bonds.

“Sec. 54B. New clean renewable energy bonds.

20 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED TAX CRED-  
21 IT BONDS.**

22 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds  
23 a qualified tax credit bond on one or more credit allowance  
24 dates of the bond during any taxable year, there shall be

1 allowed as a credit against the tax imposed by this chapter  
2 for the taxable year an amount equal to the sum of the  
3 credits determined under subsection (b) with respect to  
4 such dates.

5 “(b) AMOUNT OF CREDIT.—

6 “(1) IN GENERAL.—The amount of the credit  
7 determined under this subsection with respect to any  
8 credit allowance date for a qualified tax credit bond  
9 is 25 percent of the annual credit determined with  
10 respect to such bond.

11 “(2) ANNUAL CREDIT.—The annual credit de-  
12 termined with respect to any qualified tax credit  
13 bond is the product of—

14 “(A) the applicable credit rate, multiplied  
15 by

16 “(B) the outstanding face amount of the  
17 bond.

18 “(3) APPLICABLE CREDIT RATE.—For purposes  
19 of paragraph (2), the applicable credit rate is the  
20 rate which the Secretary estimates will permit the  
21 issuance of qualified tax credit bonds with a speci-  
22 fied maturity or redemption date without discount  
23 and without interest cost to the qualified issuer. The  
24 applicable credit rate with respect to any qualified  
25 tax credit bond shall be determined as of the first

1 day on which there is a binding, written contract for  
2 the sale or exchange of the bond.

3 “(4) SPECIAL RULE FOR ISSUANCE AND RE-  
4 DEMPTION.—In the case of a bond which is issued  
5 during the 3-month period ending on a credit allow-  
6 ance date, the amount of the credit determined  
7 under this subsection with respect to such credit al-  
8 lowance date shall be a ratable portion of the credit  
9 otherwise determined based on the portion of the 3-  
10 month period during which the bond is outstanding.  
11 A similar rule shall apply when the bond is redeemed  
12 or matures.

13 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

14 “(1) IN GENERAL.—The credit allowed under  
15 subsection (a) for any taxable year shall not exceed  
16 the excess of—

17 “(A) the sum of the regular tax liability  
18 (as defined in section 26(b)) plus the tax im-  
19 posed by section 55, over

20 “(B) the sum of the credits allowable  
21 under this part (other than subpart C and this  
22 subpart).

23 “(2) CARRYOVER OF UNUSED CREDIT.—If the  
24 credit allowable under subsection (a) exceeds the  
25 limitation imposed by paragraph (1) for such taxable

1 year, such excess shall be carried to the succeeding  
2 taxable year and added to the credit allowable under  
3 subsection (a) for such taxable year (determined be-  
4 fore the application of paragraph (1) for such suc-  
5 ceeding taxable year).

6 “(d) QUALIFIED TAX CREDIT BOND.—For purposes  
7 of this section—

8 “(1) QUALIFIED TAX CREDIT BOND.—The term  
9 ‘qualified tax credit bond’ means a new clean renew-  
10 able energy bond which is part of an issue that  
11 meets the requirements of paragraphs (2), (3), (4),  
12 (5), and (6).

13 “(2) SPECIAL RULES RELATING TO EXPENDI-  
14 TURES.—

15 “(A) IN GENERAL.—An issue shall be  
16 treated as meeting the requirements of this  
17 paragraph if, as of the date of issuance, the  
18 issuer reasonably expects—

19 “(i) 100 percent or more of the avail-  
20 able project proceeds to be spent for 1 or  
21 more qualified purposes within the 3-year  
22 period beginning on such date of issuance,  
23 and

24 “(ii) a binding commitment with a  
25 third party to spend at least 10 percent of

1           such available project proceeds will be in-  
2           curred within the 6-month period begin-  
3           ning on such date of issuance.

4           “(B) FAILURE TO SPEND REQUIRED  
5           AMOUNT OF BOND PROCEEDS WITHIN 3  
6           YEARS.—

7                   “(i) IN GENERAL.—To the extent that  
8           less than 100 percent of the available  
9           project proceeds of the issue are expended  
10          by the close of the expenditure period for  
11          1 or more qualified purposes, the issuer  
12          shall redeem all of the nonqualified bonds  
13          within 90 days after the end of such pe-  
14          riod. For purposes of this paragraph, the  
15          amount of the nonqualified bonds required  
16          to be redeemed shall be determined in the  
17          same manner as under section 142.

18                   “(ii) EXPENDITURE PERIOD.—For  
19          purposes of this subpart, the term ‘expend-  
20          iture period’ means, with respect to any  
21          issue, the 3-year period beginning on the  
22          date of issuance. Such term shall include  
23          any extension of such period under clause  
24          (iii).

1                   “(iii) EXTENSION OF PERIOD.—Upon  
2                   submission of a request prior to the expira-  
3                   tion of the expenditure period (determined  
4                   without regard to any extension under this  
5                   clause), the Secretary may extend such pe-  
6                   riod if the issuer establishes that the fail-  
7                   ure to expend the proceeds within the  
8                   original expenditure period is due to rea-  
9                   sonable cause and the expenditures for  
10                  qualified purposes will continue to proceed  
11                  with due diligence.

12                  “(C) QUALIFIED PURPOSE.—For purposes  
13                  of this paragraph, the term ‘qualified purpose’  
14                  means a purpose specified in section 54B(a)(1).

15                  “(D) REIMBURSEMENT.—For purposes of  
16                  this subtitle, available project proceeds of an  
17                  issue shall be treated as spent for a qualified  
18                  purpose if such proceeds are used to reimburse  
19                  the issuer for amounts paid for a qualified pur-  
20                  pose after the date that the Secretary makes an  
21                  allocation of bond limitation with respect to  
22                  such issue, but only if—

23                         “(i) prior to the payment of the origi-  
24                         nal expenditure, the issuer declared its in-

1 tent to reimburse such expenditure with  
2 the proceeds of a qualified tax credit bond,  
3 “(ii) not later than 60 days after pay-  
4 ment of the original expenditure, the issuer  
5 adopts an official intent to reimburse the  
6 original expenditure with such proceeds,  
7 and

8 “(iii) the reimbursement is made not  
9 later than 18 months after the date the  
10 original expenditure is paid.

11 “(3) REPORTING.—An issue shall be treated as  
12 meeting the requirements of this paragraph if the  
13 issuer of qualified tax credit bonds submits reports  
14 similar to the reports required under section 149(e).

15 “(4) SPECIAL RULES RELATING TO ARBI-  
16 TRAGE.—

17 “(A) IN GENERAL.—An issue shall be  
18 treated as meeting the requirements of this  
19 paragraph if the issuer satisfies the require-  
20 ments of section 148 with respect to the pro-  
21 ceeds of the issue.

22 “(B) SPECIAL RULE FOR INVESTMENTS  
23 DURING EXPENDITURE PERIOD.—An issue shall  
24 not be treated as failing to meet the require-  
25 ments of subparagraph (A) by reason of any in-

1 vestment of available project proceeds during  
2 the expenditure period.

3 “(C) SPECIAL RULE FOR RESERVE  
4 FUNDS.—An issue shall not be treated as fail-  
5 ing to meet the requirements of subparagraph  
6 (A) by reason of any fund which is expected to  
7 be used to repay such issue if—

8 “(i) such fund is funded at a rate not  
9 more rapid than equal annual installments,

10 “(ii) such fund is funded in a manner  
11 reasonably expected to result in an amount  
12 not greater than an amount necessary to  
13 repay the issue, and

14 “(iii) the yield on such fund is not  
15 greater than the discount rate determined  
16 under paragraph (5)(B) with respect to the  
17 issue.

18 “(5) MATURITY LIMITATION.—

19 “(A) IN GENERAL.—An issue shall not be  
20 treated as meeting the requirements of this  
21 paragraph if the maturity of any bond which is  
22 part of such issue exceeds the maximum term  
23 determined by the Secretary under subpara-  
24 graph (B).

1           “(B) MAXIMUM TERM.—During each cal-  
2           endar month, the Secretary shall determine the  
3           maximum term permitted under this paragraph  
4           for bonds issued during the following calendar  
5           month. Such maximum term shall be the term  
6           which the Secretary estimates will result in the  
7           present value of the obligation to repay the  
8           principal on the bond being equal to 50 percent  
9           of the face amount of such bond. Such present  
10          value shall be determined using as a discount  
11          rate the average annual interest rate of tax-ex-  
12          empt obligations having a term of 10 years or  
13          more which are issued during the month. If the  
14          term as so determined is not a multiple of a  
15          whole year, such term shall be rounded to the  
16          next highest whole year.

17          “(6) PROHIBITION ON FINANCIAL CONFLICTS  
18          OF INTEREST.—An issue shall be treated as meeting  
19          the requirements of this paragraph if the issuer cer-  
20          tifies that—

21                 “(A) applicable State and local law re-  
22                 quirements governing conflicts of interest are  
23                 satisfied with respect to such issue, and

24                 “(B) if the Secretary prescribes additional  
25                 conflicts of interest rules governing the appro-

1           pripate Members of Congress, Federal, State,  
2           and local officials, and their spouses, such addi-  
3           tional rules are satisfied with respect to such  
4           issue.

5           “(e) OTHER DEFINITIONS.—For purposes of this  
6 subchapter—

7           “(1) CREDIT ALLOWANCE DATE.—The term  
8           ‘credit allowance date’ means—

9                   “(A) March 15,

10                   “(B) June 15,

11                   “(C) September 15, and

12                   “(D) December 15.

13           Such term includes the last day on which the bond  
14           is outstanding.

15           “(2) BOND.—The term ‘bond’ includes any ob-  
16           ligation.

17           “(3) STATE.—The term ‘State’ includes the  
18           District of Columbia and any possession of the  
19           United States.

20           “(4) AVAILABLE PROJECT PROCEEDS.—The  
21           term ‘available project proceeds’ means—

22                   “(A) the excess of—

23                           “(i) the proceeds from the sale of an  
24                           issue, over

1                   “(ii) the issuance costs financed by  
2                   the issue (to the extent that such costs do  
3                   not exceed 2 percent of such proceeds),  
4                   and

5                   “(B) the proceeds from any investment of  
6                   the excess described in subparagraph (A).

7           “(f) CREDIT TREATED AS INTEREST.—For purposes  
8 of this subtitle, the credit determined under subsection (a)  
9 shall be treated as interest which is includible in gross in-  
10 come.

11          “(g) S CORPORATIONS AND PARTNERSHIPS.—In the  
12 case of a tax credit bond held by an S corporation or part-  
13 nership, the allocation of the credit allowed by this section  
14 to the shareholders of such corporation or partners of such  
15 partnership shall be treated as a distribution.

16          “(h) BONDS HELD BY REGULATED INVESTMENT  
17 COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—  
18 If any qualified tax credit bond is held by a regulated in-  
19 vestment company or a real estate investment trust, the  
20 credit determined under subsection (a) shall be allowed to  
21 shareholders of such company or beneficiaries of such  
22 trust (and any gross income included under subsection (f)  
23 with respect to such credit shall be treated as distributed  
24 to such shareholders or beneficiaries) under procedures  
25 prescribed by the Secretary.

1       “(i) CREDITS MAY BE STRIPPED.—Under regula-  
2 tions prescribed by the Secretary—

3               “(1) IN GENERAL.—There may be a separation  
4 (including at issuance) of the ownership of a quali-  
5 fied tax credit bond and the entitlement to the credit  
6 under this section with respect to such bond. In case  
7 of any such separation, the credit under this section  
8 shall be allowed to the person who on the credit al-  
9 lowance date holds the instrument evidencing the en-  
10 titlement to the credit and not to the holder of the  
11 bond.

12               “(2) CERTAIN RULES TO APPLY.—In the case  
13 of a separation described in paragraph (1), the rules  
14 of section 1286 shall apply to the qualified tax credit  
15 bond as if it were a stripped bond and to the credit  
16 under this section as if it were a stripped coupon.

17 **“SEC. 54B. NEW CLEAN RENEWABLE ENERGY BONDS.**

18       “(a) NEW CLEAN RENEWABLE ENERGY BOND.—For  
19 purposes of this subpart, the term ‘new clean renewable  
20 energy bond’ means any bond issued as part of an issue  
21 if—

22               “(1) 100 percent of the available project pro-  
23 ceeds of such issue are to be used for capital expend-  
24 itures incurred by public power providers or coopera-

1       tive electric companies for one or more qualified re-  
2       newable energy facilities,

3               “(2) the bond is issued by a qualified issuer,  
4       and

5               “(3) the issuer designates such bond for pur-  
6       poses of this section.

7       “(b) REDUCED CREDIT AMOUNT.—The annual credit  
8       determined under section 54A(b) with respect to any new  
9       clean renewable energy bond shall be 70 percent of the  
10      amount so determined without regard to this subsection.

11      “(c) LIMITATION ON AMOUNT OF BONDS DES-  
12      IGNATED.—

13              “(1) IN GENERAL.—The maximum aggregate  
14      face amount of bonds which may be designated  
15      under subsection (a) by any issuer shall not exceed  
16      the limitation amount allocated under this sub-  
17      section to such issuer.

18              “(2) NATIONAL LIMITATION ON AMOUNT OF  
19      BONDS DESIGNATED.—There is a national new clean  
20      renewable energy bond limitation of \$2,000,000,000  
21      which shall be allocated by the Secretary as provided  
22      in paragraph (3), except that—

23                      “(A) not more than 33 <sup>1</sup>/<sub>3</sub> percent thereof  
24                      may be allocated to qualified projects of public  
25                      power providers,

1           “(B) not more than 33 1/3 percent thereof  
2           may be allocated to qualified projects of govern-  
3           mental bodies, and

4           “(C) not more than 33 1/3 percent thereof  
5           may be allocated to qualified projects of cooper-  
6           ative electric companies.

7           “(3) METHOD OF ALLOCATION.—

8           “(A) ALLOCATION AMONG PUBLIC POWER  
9           PROVIDERS.—After the Secretary determines  
10          the qualified projects of public power providers  
11          which are appropriate for receiving an alloca-  
12          tion of the national new clean renewable energy  
13          bond limitation, the Secretary shall, to the max-  
14          imum extent practicable, make allocations  
15          among such projects in such manner that the  
16          amount allocated to each such project bears the  
17          same ratio to the cost of such project as the  
18          limitation under paragraph (2)(A) bears to the  
19          cost of all such projects.

20          “(B) ALLOCATION AMONG GOVERNMENTAL  
21          BODIES AND COOPERATIVE ELECTRIC COMPA-  
22          NIES.—The Secretary shall make allocations of  
23          the amount of the national new clean renewable  
24          energy bond limitation described in paragraphs  
25          (2)(B) and (2)(C) among qualified projects of

1 governmental bodies and cooperative electric  
2 companies, respectively, in such manner as the  
3 Secretary determines appropriate.

4 “(d) DEFINITIONS.—For purposes of this section—

5 “(1) QUALIFIED RENEWABLE ENERGY FACIL-  
6 ITY.—The term ‘qualified renewable energy facility’  
7 means a qualified facility (as determined under sec-  
8 tion 45(d) without regard to paragraphs (8) and  
9 (10) thereof and to any placed in service date)  
10 owned by a public power provider, a governmental  
11 body, or a cooperative electric company.

12 “(2) PUBLIC POWER PROVIDER.—The term  
13 ‘public power provider’ means a State utility with a  
14 service obligation, as such terms are defined in sec-  
15 tion 217 of the Federal Power Act (as in effect on  
16 the date of the enactment of this paragraph).

17 “(3) GOVERNMENTAL BODY.—The term ‘gov-  
18 ernmental body’ means any State or Indian tribal  
19 government, or any political subdivision thereof.

20 “(4) COOPERATIVE ELECTRIC COMPANY.—The  
21 term ‘cooperative electric company’ means a mutual  
22 or cooperative electric company described in section  
23 501(c)(12) or section 1381(a)(2)(C).

24 “(5) CLEAN RENEWABLE ENERGY BOND LEND-  
25 ER.—The term ‘clean renewable energy bond lender’

1 means a lender which is a cooperative which is  
2 owned by, or has outstanding loans to, 100 or more  
3 cooperative electric companies and is in existence on  
4 February 1, 2002, and shall include any affiliated  
5 entity which is controlled by such lender.

6 “(6) QUALIFIED ISSUER.—The term ‘qualified  
7 issuer’ means a public power provider, a cooperative  
8 electric company, a governmental body, a clean re-  
9 newable energy bond lender, or a not-for-profit elec-  
10 tric utility which has received a loan or loan guar-  
11 antee under the Rural Electrification Act.”.

12 (b) REPORTING.—Subsection (d) of section 6049 is  
13 amended by adding at the end the following new para-  
14 graph:

15 “(9) REPORTING OF CREDIT ON QUALIFIED  
16 TAX CREDIT BONDS.—

17 “(A) IN GENERAL.—For purposes of sub-  
18 section (a), the term ‘interest’ includes amounts  
19 includible in gross income under section 54A  
20 and such amounts shall be treated as paid on  
21 the credit allowance date (as defined in section  
22 54A(e)(1)).

23 “(B) REPORTING TO CORPORATIONS,  
24 ETC.—Except as otherwise provided in regula-  
25 tions, in the case of any interest described in

1           subparagraph (A) of this paragraph, subsection  
2           (b)(4) of this section shall be applied without  
3           regard to subparagraphs (A), (H), (I), (J), (K),  
4           and (L)(i).

5           “(C) REGULATORY AUTHORITY.—The Sec-  
6           retary may prescribe such regulations as are  
7           necessary or appropriate to carry out the pur-  
8           poses of this paragraph, including regulations  
9           which require more frequent or more detailed  
10          reporting.”.

11       (c) CONFORMING AMENDMENTS.—

12           (1) Sections 54(c)(2) and 1400N(l)(3)(B) are  
13           each amended by striking “subpart C” and inserting  
14           “subparts C and I”.

15           (2) Section 1397E(c)(2) is amended by striking  
16           “subpart H” and inserting “subparts H and I”.

17           (3) Section 6401(b)(1) is amended by striking  
18           “and H” and inserting “H, and I”.

19           (4) The heading of subpart H of part IV of  
20           subchapter A of chapter 1 is amended by striking  
21           “**Certain Bonds**” and inserting “**Clean Re-**  
22           **newable Energy Bonds**”.

23           (5) The table of subparts for part IV of sub-  
24           chapter A of chapter 1 is amended by striking the

1 item relating to subpart H and inserting the fol-  
2 lowing new items:

“SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CLEAN RENEWABLE  
ENERGY BONDS.

“SUBPART I. QUALIFIED TAX CREDIT BONDS.”.

3 (d) APPLICATION OF CERTAIN LABOR STANDARDS  
4 ON PROJECTS FINANCED UNDER TAX CREDIT BONDS.—  
5 Subchapter IV of chapter 31 of title 40, United States  
6 Code, shall apply to projects financed with the proceeds  
7 of any tax credit bond (as defined in section 54A of the  
8 Internal Revenue Code of 1986).

9 (e) EFFECTIVE DATES.—The amendments made by  
10 this section shall apply to obligations issued after the date  
11 of the enactment of this Act.

## 12 **PART II—CARBON MITIGATION PROVISIONS**

### 13 **SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED** 14 **COAL PROJECT INVESTMENT CREDIT.**

15 (a) MODIFICATION OF CREDIT AMOUNT.—Section  
16 48A(a) is amended by striking “and” at the end of para-  
17 graph (1), by striking the period at the end of paragraph  
18 (2) and inserting “, and”, and by adding at the end the  
19 following new paragraph:

20 “(3) 30 percent of the qualified investment for  
21 such taxable year in the case of projects described  
22 in clause (iii) of subsection (d)(3)(B).”.

1 (b) EXPANSION OF AGGREGATE CREDITS.—Section  
2 48A(d)(3)(A) is amended by striking “\$1,300,000,000”  
3 and inserting “\$2,550,000,000”.

4 (c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

5 (1) IN GENERAL.—Subparagraph (B) of section  
6 48A(d)(3) is amended to read as follows:

7 “(B) PARTICULAR PROJECTS.—Of the dol-  
8 lar amount in subparagraph (A), the Secretary  
9 is authorized to certify—

10 “(i) \$800,000,000 for integrated gas-  
11 ification combined cycle projects the appli-  
12 cation for which is submitted during the  
13 period described in paragraph (2)(A)(i),

14 “(ii) \$500,000,000 for projects which  
15 use other advanced coal-based generation  
16 technologies the application for which is  
17 submitted during the period described in  
18 paragraph (2)(A)(i), and

19 “(iii) \$1,250,000,000 for advanced  
20 coal-based generation technology projects  
21 the application for which is submitted dur-  
22 ing the period described in paragraph  
23 (2)(A)(ii).”.

1           (2) APPLICATION PERIOD FOR ADDITIONAL  
2 PROJECTS.—Subparagraph (A) of section 48A(d)(2)  
3 is amended to read as follows:

4           “(A) APPLICATION PERIOD.—Each appli-  
5 cant for certification under this paragraph shall  
6 submit an application meeting the requirements  
7 of subparagraph (B). An applicant may only  
8 submit an application—

9           “(i) for an allocation from the dollar  
10 amount specified in clause (i) or (ii) of  
11 paragraph (3)(B) during the 3-year period  
12 beginning on the date the Secretary estab-  
13 lishes the program under paragraph (1),  
14 and

15           “(ii) for an allocation from the dollar  
16 amount specified in paragraph (3)(B)(iii)  
17 during the 3-year period beginning at the  
18 earlier of the termination of the period de-  
19 scribed in clause (i) or the date prescribed  
20 by the Secretary.”.

21           (3) CAPTURE AND SEQUESTRATION OF CARBON  
22 DIOXIDE EMISSIONS REQUIREMENT.—

23           (A) IN GENERAL.—Section 48A(e)(1) is  
24 amended by striking “and” at the end of sub-  
25 paragraph (E), by striking the period at the

1 end of subparagraph (F) and inserting “; and”,  
2 and by adding at the end the following new sub-  
3 paragraph:

4 “(G) in the case of any project the applica-  
5 tion for which is submitted during the period  
6 described in subsection (d)(2)(A)(ii), the project  
7 includes equipment which separates and seques-  
8 ters at least 65 percent (70 percent in the case  
9 of an application for reallocated credits under  
10 subsection (d)(4)) of such project’s total carbon  
11 dioxide emissions.”.

12 (B) HIGHEST PRIORITY FOR PROJECTS  
13 WHICH SEQUESTER CARBON DIOXIDE EMIS-  
14 SIONS.—Section 48A(e)(3) is amended by strik-  
15 ing “and” at the end of subparagraph (A)(iii),  
16 by striking the period at the end of subpara-  
17 graph (B)(iii) and inserting “, and”, and by  
18 adding at the end the following new subpara-  
19 graph:

20 “(C) give highest priority to projects with  
21 the greatest separation and sequestration per-  
22 centage of total carbon dioxide emissions.”.

23 (C) RECAPTURE OF CREDIT FOR FAILURE  
24 TO SEQUESTER.—Section 48A is amended by  
25 adding at the end the following new subsection:

1       “(h) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
2   QUESTER.—The Secretary shall provide for recapturing  
3   the benefit of any credit allowable under subsection (a)  
4   with respect to any project which fails to attain or main-  
5   tain the separation and sequestration requirements of sub-  
6   section (e)(1)(G).”.

7           (4) ADDITIONAL PRIORITY FOR RESEARCH  
8   PARTNERSHIPS.—Section 48A(e)(3)(B), as amended  
9   by paragraph (3)(B), is amended—

10           (A) by striking “and” at the end of clause

11           (ii),

12           (B) by redesignating clause (iii) as clause

13           (iv), and

14           (C) by inserting after clause (ii) the fol-  
15   lowing new clause:

16           “(iii) applicant participants who have  
17           a research partnership with an eligible edu-  
18           cational institution (as defined in section  
19           529(e)(5)), and”.

20           (5) CLERICAL AMENDMENT.—Section 48A(e)(3)  
21   is amended by striking “INTEGRATED GASIFICATION  
22   COMBINED CYCLE” in the heading and inserting  
23   “CERTAIN”.

24           (d) COMPETITIVE CERTIFICATION AWARDS MODI-  
25   FICATION AUTHORITY.—Section 48A, as amended by sub-

1 section (c)(3), is amended by adding at the end the fol-  
2 lowing new subsection:

3 “(i) COMPETITIVE CERTIFICATION AWARDS MODI-  
4 FICATION AUTHORITY.—In implementing this section or  
5 section 48B, the Secretary is directed to modify the terms  
6 of any competitive certification award and any associated  
7 closing agreement where such modification—

8 “(1) is consistent with the objectives of such  
9 section,

10 “(2) is requested by the recipient of the com-  
11 petitive certification award, and

12 “(3) involves moving the project site to improve  
13 the potential to capture and sequester carbon dioxide  
14 emissions, reduce costs of transporting feedstock,  
15 and serve a broader customer base,

16 unless the Secretary determines that the dollar amount  
17 of tax credits available to the taxpayer under such section  
18 would increase as a result of the modification or such  
19 modification would result in such project not being origi-  
20 nally certified. In considering any such modification, the  
21 Secretary shall consult with other relevant Federal agen-  
22 cies, including the Department of Energy.”.

23 (e) DISCLOSURE OF ALLOCATIONS.—Section 48A(d)  
24 is amended by adding at the end the following new para-  
25 graph:

1           “(5) DISCLOSURE OF ALLOCATIONS.—The Sec-  
2           retary shall, upon making a certification under this  
3           subsection or section 48B(d), publicly disclose the  
4           identity of the applicant and the amount of the cred-  
5           it certified with respect to such applicant.”.

6           (f) EFFECTIVE DATES.—

7           (1) IN GENERAL.—Except as otherwise pro-  
8           vided in this subsection, the amendments made by  
9           this section shall apply to credits the application for  
10          which is submitted during the period described in  
11          section 48A(d)(2)(A)(ii) of the Internal Revenue  
12          Code of 1986 and which are allocated or reallocated  
13          after the date of the enactment of this Act.

14          (2) COMPETITIVE CERTIFICATION AWARDS  
15          MODIFICATION AUTHORITY.—The amendment made  
16          by subsection (d) shall take effect on the date of the  
17          enactment of this Act and is applicable to all com-  
18          petitive certification awards entered into under sec-  
19          tion 48A or 48B of the Internal Revenue Code of  
20          1986, whether such awards were issued before, on,  
21          or after such date of enactment.

22          (3) DISCLOSURE OF ALLOCATIONS.—The  
23          amendment made by subsection (e) shall apply to  
24          certifications made after the date of the enactment  
25          of this Act.

1           (4) CLERICAL AMENDMENT.—The amendment  
2           made by subsection (c)(5) shall take effect as if in-  
3           cluded in the amendment made by section 1307(b)  
4           of the Energy Tax Incentives Act of 2005.

5   **SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFI-**  
6                           **CATION INVESTMENT CREDIT.**

7           (a) MODIFICATION OF CREDIT AMOUNT.—Section  
8   48B(a) is amended by inserting “(30 percent in the case  
9   of credits allocated under subsection (d)(1)(B))” after “20  
10 percent”.

11          (b) EXPANSION OF AGGREGATE CREDITS.—Section  
12   48B(d)(1) is amended by striking “shall not exceed  
13   \$350,000,000” and all that follows and inserting “shall  
14   not exceed—

15                       “(A) \$350,000,000, plus

16                       “(B) \$250,000,000 for qualifying gasifi-  
17                       cation projects that include equipment which  
18                       separates and sequesters at least 75 percent of  
19                       such project’s total carbon dioxide emissions.”.

20          (c) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
21   QUESTER.—Section 48B is amended by adding at the end  
22   the following new subsection:

23                       “(f) RECAPTURE OF CREDIT FOR FAILURE TO SE-  
24   QUESTER.—The Secretary shall provide for recapturing  
25   the benefit of any credit allowable under subsection (a)

1 with respect to any project which fails to attain or main-  
2 tain the separation and sequestration requirements for  
3 such project under subsection (d)(1).”.

4 (d) SELECTION PRIORITIES.—Section 48B(d) is  
5 amended by adding at the end the following new para-  
6 graph:

7 “(4) SELECTION PRIORITIES.—In determining  
8 which qualifying gasification projects to certify  
9 under this section, the Secretary shall—

10 “(A) give highest priority to projects with  
11 the greatest separation and sequestration per-  
12 centage of total carbon dioxide emissions, and

13 “(B) give high priority to applicant partici-  
14 pants who have a research partnership with an  
15 eligible educational institution (as defined in  
16 section 529(e)(5)).”.

17 (e) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to credits described in section  
19 48B(d)(1)(B) of the Internal Revenue Code of 1986 which  
20 are allocated or reallocated after the date of the enactment  
21 of this Act.

22 **SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX.**

23 Paragraph (2) of section 4121(e) is amended—

24 (1) by striking “January 1, 2014” in subpara-  
25 graph (A) and inserting “December 31, 2018”, and

1           (2) by striking “January 1 after 1981” in sub-  
2       paragraph (B) and inserting “December 31 after  
3       2007”.

4       **SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EX-**  
5                               **CISE TAX TO CERTAIN COAL PRODUCERS**  
6                               **AND EXPORTERS.**

7       (a) REFUND.—

8           (1) COAL PRODUCERS.—

9                   (A) IN GENERAL.—Notwithstanding sub-  
10       sections (a)(1) and (c) of section 6416 and sec-  
11       tion 6511 of the Internal Revenue Code of  
12       1986, if—

13                   (i) a coal producer establishes that  
14                   such coal producer, or a party related to  
15                   such coal producer, exported coal produced  
16                   by such coal producer to a foreign country  
17                   or shipped coal produced by such coal pro-  
18                   ducer to a possession of the United States,  
19                   or caused such coal to be exported or  
20                   shipped, the export or shipment of which  
21                   was other than through an exporter who  
22                   meets the requirements of paragraph (2),

23                   (ii) such coal producer filed an excise  
24                   tax return on or after October 1, 1990,

1 and on or before the date of the enactment  
2 of this Act, and

3 (iii) such coal producer files a claim  
4 for refund with the Secretary not later  
5 than the close of the 30-day period begin-  
6 ning on the date of the enactment of this  
7 Act,

8 then the Secretary shall pay to such coal pro-  
9 ducer an amount equal to the tax paid under  
10 section 4121 of such Code on such coal ex-  
11 ported or shipped by the coal producer or a  
12 party related to such coal producer, or caused  
13 by the coal producer or a party related to such  
14 coal producer to be exported or shipped.

15 (B) SPECIAL RULES FOR CERTAIN TAX-  
16 PAYERS.—For purposes of this section—

17 (i) IN GENERAL.—If a coal producer  
18 or a party related to a coal producer has  
19 received a judgment described in clause  
20 (iii), such coal producer shall be deemed to  
21 have established the export of coal to a for-  
22 eign country or shipment of coal to a pos-  
23 session of the United States under sub-  
24 paragraph (A)(i).

1           (ii) AMOUNT OF PAYMENT.—If a tax-  
2           payer described in clause (i) is entitled to  
3           a payment under subparagraph (A), the  
4           amount of such payment shall be reduced  
5           by any amount paid pursuant to the judg-  
6           ment described in clause (iii).

7           (iii) JUDGMENT DESCRIBED.—A judg-  
8           ment is described in this subparagraph if  
9           such judgment—

10                   (I) is made by a court of com-  
11                   petent jurisdiction within the United  
12                   States,

13                   (II) relates to the constitu-  
14                   tionality of any tax paid on exported  
15                   coal under section 4121 of the Inter-  
16                   nal Revenue Code of 1986, and

17                   (III) is in favor of the coal pro-  
18                   ducer or the party related to the coal  
19                   producer.

20           (2) EXPORTERS.—Notwithstanding subsections  
21           (a)(1) and (c) of section 6416 and section 6511 of  
22           the Internal Revenue Code of 1986, and a judgment  
23           described in paragraph (1)(B)(iii) of this subsection,  
24           if—

1 (A) an exporter establishes that such ex-  
2 porter exported coal to a foreign country or  
3 shipped coal to a possession of the United  
4 States, or caused such coal to be so exported or  
5 shipped,

6 (B) such exporter filed a tax return on or  
7 after October 1, 1990, and on or before the  
8 date of the enactment of this Act, and

9 (C) such exporter files a claim for refund  
10 with the Secretary not later than the close of  
11 the 30-day period beginning on the date of the  
12 enactment of this Act,

13 then the Secretary shall pay to such exporter an  
14 amount equal to \$0.825 per ton of such coal ex-  
15 ported by the exporter or caused to be exported or  
16 shipped, or caused to be exported or shipped, by the  
17 exporter.

18 (b) LIMITATIONS.—Subsection (a) shall not apply  
19 with respect to exported coal if a settlement with the Fed-  
20 eral Government has been made with and accepted by, the  
21 coal producer, a party related to such coal producer, or  
22 the exporter, of such coal, as of the date that the claim  
23 is filed under this section with respect to such exported  
24 coal. For purposes of this subsection, the term “settlement  
25 with the Federal Government” shall not include any settle-

1 ment or stipulation entered into as of the date of the en-  
2 actment of this Act, the terms of which contemplate a  
3 judgment concerning which any party has reserved the  
4 right to file an appeal, or has filed an appeal.

5 (c) SUBSEQUENT REFUND PROHIBITED.—No refund  
6 shall be made under this section to the extent that a credit  
7 or refund of such tax on such exported or shipped coal  
8 has been paid to any person.

9 (d) DEFINITIONS.—For purposes of this section—

10 (1) COAL PRODUCER.—The term “coal pro-  
11 ducer” means the person in whom is vested owner-  
12 ship of the coal immediately after the coal is severed  
13 from the ground, without regard to the existence of  
14 any contractual arrangement for the sale or other  
15 disposition of the coal or the payment of any royalti-  
16 ties between the producer and third parties. The  
17 term includes any person who extracts coal from  
18 coal waste refuse piles or from the silt waste product  
19 which results from the wet washing (or similar proc-  
20 essing) of coal.

21 (2) EXPORTER.—The term “exporter” means a  
22 person, other than a coal producer, who does not  
23 have a contract, fee arrangement, or any other  
24 agreement with a producer or seller of such coal to

1 export or ship such coal to a third party on behalf  
2 of the producer or seller of such coal and—

3 (A) is indicated in the shipper's export  
4 declaration or other documentation as the ex-  
5 porter of record, or

6 (B) actually exported such coal to a for-  
7 eign country or shipped such coal to a posses-  
8 sion of the United States, or caused such coal  
9 to be so exported or shipped.

10 (3) RELATED PARTY.—The term “a party re-  
11 lated to such coal producer” means a person who—

12 (A) is related to such coal producer  
13 through any degree of common management,  
14 stock ownership, or voting control,

15 (B) is related (within the meaning of sec-  
16 tion 144(a)(3) of the Internal Revenue Code of  
17 1986) to such coal producer, or

18 (C) has a contract, fee arrangement, or  
19 any other agreement with such coal producer to  
20 sell such coal to a third party on behalf of such  
21 coal producer.

22 (4) SECRETARY.—The term “Secretary” means  
23 the Secretary of Treasury or the Secretary's des-  
24 ignee.

1 (e) TIMING OF REFUND.—With respect to any claim  
2 for refund filed pursuant to this section, the Secretary  
3 shall determine whether the requirements of this section  
4 are met not later than 180 days after such claim is filed.  
5 If the Secretary determines that the requirements of this  
6 section are met, the claim for refund shall be paid not  
7 later than 180 days after the Secretary makes such deter-  
8 mination.

9 (f) INTEREST.—Any refund paid pursuant to this  
10 section shall be paid by the Secretary with interest from  
11 the date of overpayment determined by using the overpay-  
12 ment rate and method under section 6621 of the Internal  
13 Revenue Code of 1986.

14 (g) DENIAL OF DOUBLE BENEFIT.—The payment  
15 under subsection (a) with respect to any coal shall not ex-  
16 ceed—

17 (1) in the case of a payment to a coal producer,  
18 the amount of tax paid under section 4121 of the  
19 Internal Revenue Code of 1986 with respect to such  
20 coal by such coal producer or a party related to such  
21 coal producer, and

22 (2) in the case of a payment to an exporter, an  
23 amount equal to \$0.825 per ton with respect to such  
24 coal exported by the exporter or caused to be ex-  
25 ported by the exporter.

1 (h) APPLICATION OF SECTION.—This section applies  
2 only to claims on coal exported or shipped on or after Oc-  
3 tober 1, 1990, through the date of the enactment of this  
4 Act.

5 (i) STANDING NOT CONFERRED.—

6 (1) EXPORTERS.—With respect to exporters,  
7 this section shall not confer standing upon an ex-  
8 porter to commence, or intervene in, any judicial or  
9 administrative proceeding concerning a claim for re-  
10 fund by a coal producer of any Federal or State tax,  
11 fee, or royalty paid by the coal producer.

12 (2) COAL PRODUCERS.—With respect to coal  
13 producers, this section shall not confer standing  
14 upon a coal producer to commence, or intervene in,  
15 any judicial or administrative proceeding concerning  
16 a claim for refund by an exporter of any Federal or  
17 State tax, fee, or royalty paid by the producer and  
18 alleged to have been passed on to an exporter.

19 **SEC. 115. CARBON AUDIT OF THE TAX CODE.**

20 (a) STUDY.—The Secretary of the Treasury shall  
21 enter into an agreement with the National Academy of  
22 Sciences to undertake a comprehensive review of the Inter-  
23 nal Revenue Code of 1986 to identify the types of and  
24 specific tax provisions that have the largest effects on car-

1 bon and other greenhouse gas emissions and to estimate  
2 the magnitude of those effects.

3 (b) REPORT.—Not later than 2 years after the date  
4 of enactment of this Act, the National Academy of  
5 Sciences shall submit to Congress a report containing the  
6 results of study authorized under this section.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
8 authorized to be appropriated to carry out this section  
9 \$1,500,000 for the period of fiscal years 2008 and 2009.

## 10 **Subtitle B—Transportation and** 11 **Domestic Fuel Security Provisions**

### 12 **SEC. 121. CREDIT FOR PRODUCTION OF CELLULOSIC** 13 **BIOFUEL.**

14 (a) IN GENERAL.—Subsection (a) of section 40 is  
15 amended by striking “plus” at the end of paragraph (1),  
16 by striking “plus” at the end of paragraph (2), by striking  
17 the period at the end of paragraph (3) and inserting “,  
18 plus”, and by adding at the end the following new para-  
19 graph:

20 “(4) the cellulosic biofuel producer credit.”.

21 (b) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

22 (1) IN GENERAL.—Subsection (b) of section 40  
23 is amended by adding at the end the following new  
24 paragraph:

1           “(6) CELLULOSIC BIOFUEL PRODUCER CRED-  
2           IT.—

3           “(A) IN GENERAL.—The cellulosic biofuel  
4           producer credit of any taxpayer is an amount  
5           equal to the applicable amount for each gallon  
6           of qualified cellulosic biofuel production.

7           “(B) APPLICABLE AMOUNT.—For purposes  
8           of subparagraph (A), the applicable amount  
9           means \$1.01, except that such amount shall, in  
10          the case of cellulosic biofuel which is alcohol, be  
11          reduced by the sum of—

12           “(i) the amount of the credit in effect  
13           for such alcohol under subsection (b)(1)  
14           (without regard to subsection (b)(3)) at  
15           the time of the qualified cellulosic biofuel  
16           production, plus

17           “(ii) in the case of ethanol, the  
18           amount of the credit in effect under sub-  
19           section (b)(4) at the time of such produc-  
20           tion.

21           “(C) QUALIFIED CELLULOSIC BIOFUEL  
22           PRODUCTION.—For purposes of this section,  
23           the term ‘qualified cellulosic biofuel production’  
24           means any cellulosic biofuel which is produced

1 by the taxpayer, and which during the taxable  
2 year—

3 “(i) is sold by the taxpayer to another  
4 person—

5 “(I) for use by such other person  
6 in the production of a qualified cel-  
7 lulosic biofuel mixture in such other  
8 person’s trade or business (other than  
9 casual off-farm production),

10 “(II) for use by such other per-  
11 son as a fuel in a trade or business,  
12 or

13 “(III) who sells such cellulosic  
14 biofuel at retail to another person and  
15 places such cellulosic biofuel in the  
16 fuel tank of such other person, or

17 “(ii) is used or sold by the taxpayer  
18 for any purpose described in clause (i).

19 The qualified cellulosic biofuel production of  
20 any taxpayer for any taxable year shall not in-  
21 clude any alcohol which is purchased by the  
22 taxpayer and with respect to which such pro-  
23 ducer increases the proof of the alcohol by addi-  
24 tional distillation.

1           “(D) QUALIFIED CELLULOSIC BIOFUEL  
2 MIXTURE.—For purposes of this paragraph, the  
3 term ‘qualified cellulosic biofuel mixture’ means  
4 a mixture of cellulosic biofuel and gasoline or of  
5 cellulosic biofuel and a special fuel which—

6           “(i) is sold by the person producing  
7 such mixture to any person for use as a  
8 fuel, or

9           “(ii) is used as a fuel by the person  
10 producing such mixture.

11           “(E) CELLULOSIC BIOFUEL.—For pur-  
12 poses of this paragraph—

13           “(i) IN GENERAL.—The term ‘cel-  
14 lulosic biofuel’ means any liquid fuel  
15 which—

16           “(I) is produced from any  
17 lignocellulosic or hemicellulosic matter  
18 that is available on a renewable or re-  
19 curring basis, and

20           “(II) meets the registration re-  
21 quirements for fuels and fuel additives  
22 established by the Environmental Pro-  
23 tection Agency under section 211 of  
24 the Clean Air Act (42 U.S.C. 7545).

1                   “(ii) EXCLUSION OF LOW-PROOF AL-  
2                   COHOL.—Such term shall not include any  
3                   alcohol with a proof of less than 150. The  
4                   determination of the proof of any alcohol  
5                   shall be made without regard to any added  
6                   denaturants.

7                   “(F) ALLOCATION OF CELLULOSIC  
8                   BIOFUEL PRODUCER CREDIT TO PATRONS OF  
9                   COOPERATIVE.—Rules similar to the rules  
10                  under subsection (g)(6) shall apply for purposes  
11                  of this paragraph.

12                  “(G) REGISTRATION REQUIREMENT.—No  
13                  credit shall be determined under this paragraph  
14                  with respect to any taxpayer unless such tax-  
15                  payer is registered with the Secretary as a pro-  
16                  ducer of cellulosic biofuel under section 4101.

17                  “(H) APPLICATION OF PARAGRAPH.—This  
18                  paragraph shall apply with respect to qualified  
19                  cellulosic biofuel production after December 31,  
20                  2008, and before January 1, 2016.”.

21                  “(2) TERMINATION DATE NOT TO APPLY.—Sub-  
22                  section (e) of section 40 is amended—

23                         (A) by inserting “or subsection (b)(6)(H)”  
24                         after “by reason of paragraph (1)” in para-  
25                         graph (2), and

1 (B) by adding at the end the following new  
2 paragraph:

3 “(3) EXCEPTION FOR CELLULOSIC BIOFUEL  
4 PRODUCER CREDIT.—Paragraph (1) shall not apply  
5 to the portion of the credit allowed under this sec-  
6 tion by reason of subsection (a)(4).”.

7 (3) CONFORMING AMENDMENTS.—

8 (A) Paragraph (1) of section 4101(a) is  
9 amended—

10 (i) by striking “and every person” and  
11 inserting “, every person”, and

12 (ii) by inserting “, and every person  
13 producing cellulosic biofuel (as defined in  
14 section 40(b)(6)(E))” after “section  
15 6426(b)(4)(A)”.

16 (B) The heading of section 40, and the  
17 item relating to such section in the table of sec-  
18 tions for subpart D of part IV of subchapter A  
19 of chapter 1, are each amended by inserting “,  
20 etc.,” after “Alcohol”.

21 (c) BIOFUEL NOT USED AS A FUEL, ETC.—

22 (1) IN GENERAL.—Paragraph (3) of section  
23 40(d) is amended by redesignating subparagraph  
24 (D) as subparagraph (E) and by inserting after sub-  
25 paragraph (C) the following new subparagraph:

1           “(D) CELLULOSIC BIOFUEL PRODUCER  
2 CREDIT.—If—

3           “(i) any credit is allowed under sub-  
4 section (a)(4), and

5           “(ii) any person does not use such  
6 fuel for a purpose described in subsection  
7 (b)(6)(C),

8 then there is hereby imposed on such person a  
9 tax equal to the applicable amount (as defined  
10 in subsection (b)(6)(B)) for each gallon of such  
11 cellulosic biofuel.”.

12 (2) CONFORMING AMENDMENTS.—

13           (A) Subparagraph (C) of section 40(d)(3)  
14 is amended by striking “PRODUCER” in the  
15 heading and inserting “SMALL ETHANOL PRO-  
16 DUCER”.

17           (B) Subparagraph (E) of section 40(d)(3),  
18 as redesignated by paragraph (1), is amended  
19 by striking “or (C)” and inserting “(C), or  
20 (D)”.

21 (d) BIOFUEL PRODUCED IN THE UNITED STATES.—

22 Section 40(d) is amended by adding at the end the fol-  
23 lowing new paragraph:

24           “(6) SPECIAL RULE FOR CELLULOSIC BIOFUEL  
25 PRODUCER CREDIT.—No cellulosic biofuel producer

1 credit shall be determined under subsection (a) with  
2 respect to any cellulosic biofuel unless such cellulosic  
3 biofuel is produced in the United States and used as  
4 a fuel in the United States. For purposes of this  
5 subsection, the term ‘United States’ includes any  
6 possession of the United States.”.

7 (e) WAIVER OF CREDIT LIMIT FOR CELLULOSIC  
8 BIOFUEL PRODUCTION BY SMALL ETHANOL PRO-  
9 DUCERS.—Section 40(b)(4)(C) is amended by inserting  
10 “(determined without regard to any qualified cellulosic  
11 biofuel production)” after “15,000,000 gallons”.

12 (f) DENIAL OF DOUBLE BENEFIT.—

13 (1) BIODIESEL.—Paragraph (1) of section  
14 40A(d) is amended by adding at the end the fol-  
15 lowing new flush sentence:

16 “Such term shall not include any liquid with respect  
17 to which a credit may be determined under section  
18 40.”.

19 (2) RENEWABLE DIESEL.—Paragraph (3) of  
20 section 40A(f) is amended by adding at the end the  
21 following new flush sentence:

22 “Such term shall not include any liquid with respect  
23 to which a credit may be determined under section  
24 40.”.

1 (g) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to fuel produced after December  
3 31, 2008.

4 **SEC. 122. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS**  
5 **DEPRECIATION FOR BIOMASS ETHANOL**  
6 **PLANT PROPERTY.**

7 (a) IN GENERAL.—Paragraph (3) of section 168(l)  
8 is amended to read as follows:

9 “(3) CELLULOSIC BIOFUEL.—The term ‘cel-  
10 lulosic biofuel’ means any liquid fuel which is pro-  
11 duced from any lignocellulosic or hemicellulosic mat-  
12 ter that is available on a renewable or recurring  
13 basis.”.

14 (b) CONFORMING AMENDMENTS.—Subsection (l) of  
15 section 168 is amended—

16 (1) by striking “cellulosic biomass ethanol”  
17 each place it appears and inserting “cellulosic  
18 biofuel”,

19 (2) by striking “CELLULOSIC BIOMASS ETH-  
20 ANOL” in the heading of such subsection and insert-  
21 ing “CELLULOSIC BIOFUEL”, and

22 (3) by striking “CELLULOSIC BIOMASS ETH-  
23 ANOL” in the heading of paragraph (2) thereof and  
24 inserting “CELLULOSIC BIOFUEL”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 the date of the enactment of this Act, in taxable years  
4 ending after such date.

5 **SEC. 123. CREDITS FOR BIODIESEL AND RENEWABLE DIE-**  
6 **SEL.**

7 (a) IN GENERAL.—Sections 40A(g), 6426(e)(6), and  
8 6427(e)(5)(B) are each amended by striking “December  
9 31, 2008” and inserting “December 31, 2009”.

10 (b) INCREASE IN RATE OF CREDIT.—

11 (1) INCOME TAX CREDIT.—Paragraphs (1)(A)  
12 and (2)(A) of section 40A(b) are each amended by  
13 striking “50 cents” and inserting “\$1.00”.

14 (2) EXCISE TAX CREDIT.—Paragraph (2) of  
15 section 6426(e) is amended to read as follows:

16 “(2) APPLICABLE AMOUNT.—For purposes of  
17 this subsection, the applicable amount is \$1.00.”.

18 (3) CONFORMING AMENDMENTS.—

19 (A) Subsection (b) of section 40A is  
20 amended by striking paragraph (3) and by re-  
21 designating paragraphs (4) and (5) as para-  
22 graphs (3) and (4), respectively.

23 (B) Paragraph (2) of section 40A(f) is  
24 amended to read as follows:

1           “(2) EXCEPTION.—Subsection (b)(4) shall not  
2           apply with respect to renewable diesel.”.

3           (C) Paragraphs (2) and (3) of section  
4           40A(e) are each amended by striking “sub-  
5           section (b)(5)(C)” and inserting “subsection  
6           (b)(4)(C)”.

7           (D) Clause (ii) of section 40A(d)(3)(C) is  
8           amended by striking “subsection (b)(5)(B)”  
9           and inserting “subsection (b)(4)(B)”.

10          (c) UNIFORM TREATMENT OF DIESEL PRODUCED  
11 FROM BIOMASS.—Paragraph (3) of section 40A(f) is  
12 amended—

13           (1) by striking “diesel fuel” and inserting “liq-  
14           uid fuel”,

15           (2) by striking “using a thermal  
16           depolymerization process”, and

17           (3) by striking “or D396” in subparagraph (B)  
18           and inserting “, D396, or other equivalent standard  
19           approved by the Secretary”.

20          (d) COPRODUCTION OF RENEWABLE DIESEL WITH  
21 PETROLEUM FEEDSTOCK.—

22           (1) IN GENERAL.—Paragraph (3) of section  
23           40A(f) (defining renewable diesel) is amended by  
24           adding at the end the following flush sentence:

1 “Such term does not include any fuel derived from  
2 coprocessing biomass with a feedstock which is not  
3 biomass. For purposes of this paragraph, the term  
4 ‘biomass’ has the meaning given such term by sec-  
5 tion 45K(c)(3).”.

6 (2) CONFORMING AMENDMENT.—Paragraph (3)  
7 of section 40A(f) is amended by striking “(as de-  
8 fined in section 45K(c)(3))”.

9 (e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—  
10 Paragraph (3) of section 40A(f) (defining renewable die-  
11 sel) is amended by adding at the end the following new  
12 flush sentence:

13 “The term ‘renewable diesel’ also means fuel derived  
14 from biomass which meets the requirements of a De-  
15 partment of Defense specification for military jet  
16 fuel or an American Society of Testing and Mate-  
17 rials specification for aviation turbine fuel.”.

18 (f) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as otherwise pro-  
20 vided in this subsection, the amendments made by  
21 this section shall apply to fuel produced, and sold or  
22 used, after December 31, 2008.

23 (2) COPRODUCTION OF RENEWABLE DIESEL  
24 WITH PETROLEUM FEEDSTOCK.—The amendments

1       made by subsection (c) shall apply to fuel produced,  
2       and sold or used, after February 13, 2008.

3   **SEC. 124. MODIFICATION OF ALCOHOL CREDIT.**

4       (a) INCOME TAX CREDIT.—

5           (1) IN GENERAL.—The table in paragraph (2)  
6       of section 40(h) is amended—

7           (A) by striking “through 2010” in the first  
8       column and inserting “, 2006, 2007, or 2008”,

9           (B) by striking the period at the end of the  
10       third row, and

11          (C) by adding at the end the following new  
12       row:

“2009 through 2010 ..... 45 cents ..... 33.33 cents.”.

13          (2) EXCEPTION.—Section 40(h) is amended by  
14       adding at the end the following new paragraph:

15           “(3) REDUCTION DELAYED UNTIL ANNUAL  
16       PRODUCTION OR IMPORTATION OF 7,500,000,000 GAL-  
17       LONS.—

18           “(A) IN GENERAL.—In the case of any cal-  
19       endar year beginning after 2008, if the Sec-  
20       retary makes a determination described in sub-  
21       paragraph (B) with respect to all preceding cal-  
22       endar years beginning after 2007, the last row  
23       in the table in paragraph (2) shall be applied  
24       by substituting ‘51 cents’ for ‘45 cents’.

1           “(B) DETERMINATION.—A determination  
2           described in this subparagraph with respect to  
3           any calendar year is a determination, in con-  
4           sultation with the Administrator of the Envi-  
5           ronmental Protection Agency, that an amount  
6           less than 7,500,000,000 gallons of ethanol (in-  
7           cluding cellulosic ethanol) has been produced in  
8           or imported into the United States in such  
9           year.”.

10       (b) EXCISE TAX CREDIT.—

11           (1) IN GENERAL.—Subparagraph (A) of section  
12           6426(b)(2) (relating to alcohol fuel mixture credit)  
13           is amended by striking “the applicable amount is 51  
14           cents” and inserting “the applicable amount is—

15                       “(i) in the case of calendar years be-  
16                       ginning before 2009, 51 cents, and

17                       “(ii) in the case of calendar years be-  
18                       ginning after 2008, 45 cents.”.

19           (2) EXCEPTION.—Paragraph (2) of section  
20           6426(b) is amended by adding at the end the fol-  
21           lowing new subparagraph:

22                       “(C) REDUCTION DELAYED UNTIL ANNUAL  
23                       PRODUCTION OR IMPORTATION OF 7,500,000,000  
24                       GALLONS.—In the case of any calendar year be-  
25                       ginning after 2008, if the Secretary makes a

1 determination described in section 40(h)(3)(B)  
2 with respect to all preceding calendar years be-  
3 ginning after 2007, subparagraph (A)(ii) shall  
4 be applied by substituting ‘51 cents’ for ‘45  
5 cents.’”

6 (3) CONFORMING AMENDMENT.—Subparagraph  
7 (A) of section 6426(b)(2) is amended by striking  
8 “subparagraph (B)” and inserting “subparagraphs  
9 (B) and (C)”.

10 (c) EFFECTIVE DATE.—The amendments made by  
11 this section shall take effect on the date of the enactment  
12 of this Act.

13 **SEC. 125. CALCULATION OF VOLUME OF ALCOHOL FOR**  
14 **FUEL CREDITS.**

15 (a) IN GENERAL.—Paragraph (4) of section 40(d) is  
16 amended by striking “5 percent” and inserting “2 per-  
17 cent”.

18 (b) CONFORMING AMENDMENT FOR EXCISE TAX  
19 CREDIT.—Section 6426(b) is amended by redesignating  
20 paragraph (5) as paragraph (6) and by inserting after  
21 paragraph (4) the following new paragraph:

22 “(5) VOLUME OF ALCOHOL.—For purposes of  
23 determining under subsection (a) the number of gal-  
24 lons of alcohol with respect to which a credit is al-  
25 lowable under subsection (a), the volume of alcohol

1 shall include the volume of any denaturant (includ-  
2 ing gasoline) which is added under any formulas ap-  
3 proved by the Secretary to the extent that such de-  
4 naturants do not exceed 2 percent of the volume of  
5 such alcohol (including denaturants).”.

6 (c) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to fuel sold or used after December  
8 31, 2008.

9 **SEC. 126. CLARIFICATION THAT CREDITS FOR FUEL ARE**  
10 **DESIGNED TO PROVIDE AN INCENTIVE FOR**  
11 **UNITED STATES PRODUCTION.**

12 (a) ALCOHOL FUELS CREDIT.—Subsection (d) of  
13 section 40 is amended by adding at the end the following  
14 new paragraph:

15 “(6) LIMITATION TO ALCOHOL WITH CONNEC-  
16 TION TO THE UNITED STATES.—No credit shall be  
17 determined under this section with respect to any al-  
18 cohol which is produced outside the United States  
19 for use as a fuel outside the United States. For pur-  
20 poses of this paragraph, the term ‘United States’ in-  
21 cludes any possession of the United States.”.

22 (b) BIODIESEL FUELS CREDIT.—Subsection (d) of  
23 section 40A is amended by adding at the end the following  
24 new paragraph:

1           “(5) LIMITATION TO BIODIESEL WITH CONNEC-  
2           TION TO THE UNITED STATES.—No credit shall be  
3           determined under this section with respect to any  
4           biodiesel which is produced outside the United  
5           States for use as a fuel outside the United States.  
6           For purposes of this paragraph, the term ‘United  
7           States’ includes any possession of the United  
8           States.”.

9           (c) EXCISE TAX CREDIT.—

10           (1) IN GENERAL.—Section 6426 is amended by  
11           adding at the end the following new subsection:

12           “(i) LIMITATION TO FUELS WITH CONNECTION TO  
13           THE UNITED STATES.—

14           “(1) ALCOHOL.—No credit shall be determined  
15           under this section with respect to any alcohol which  
16           is produced outside the United States for use as a  
17           fuel outside the United States.

18           “(2) BIODIESEL AND ALTERNATIVE FUELS.—  
19           No credit shall be determined under this section  
20           with respect to any biodiesel or alternative fuel  
21           which is produced outside the United States for use  
22           as a fuel outside the United States.

23           For purposes of this subsection, the term ‘United States’  
24           includes any possession of the United States.”.



1 hicle placed in service by the taxpayer during the taxable  
2 year.

3 “(b) PER VEHICLE DOLLAR LIMITATION.—

4 “(1) IN GENERAL.—The amount determined  
5 under this subsection with respect to any new quali-  
6 fied plug-in electric drive motor vehicle is the sum  
7 of the amounts determined under paragraphs (2)  
8 and (3) with respect to such vehicle.

9 “(2) BASE AMOUNT.—The amount determined  
10 under this paragraph is \$3,000.

11 “(3) BATTERY CAPACITY.—In the case of a ve-  
12 hicle which draws propulsion energy from a battery  
13 with not less than 5 kilowatt hours of capacity, the  
14 amount determined under this paragraph is \$200,  
15 plus \$200 for each kilowatt hour of capacity in ex-  
16 cess of 5 kilowatt hours. The amount determined  
17 under this paragraph shall not exceed \$2,000.

18 “(c) APPLICATION WITH OTHER CREDITS.—

19 “(1) BUSINESS CREDIT TREATED AS PART OF  
20 GENERAL BUSINESS CREDIT.—So much of the credit  
21 which would be allowed under subsection (a) for any  
22 taxable year (determined without regard to this sub-  
23 section) that is attributable to property of a char-  
24 acter subject to an allowance for depreciation shall

1 be treated as a credit listed in section 38(b) for such  
2 taxable year (and not allowed under subsection (a)).

3 “(2) PERSONAL CREDIT.—

4 “(A) IN GENERAL.—For purposes of this  
5 title, the credit allowed under subsection (a) for  
6 any taxable year (determined after application  
7 of paragraph (1)) shall be treated as a credit  
8 allowable under subpart A for such taxable  
9 year.

10 “(B) LIMITATION BASED ON AMOUNT OF  
11 TAX.—In the case of a taxable year to which  
12 section 26(a)(2) does not apply, the credit al-  
13 lowed under subsection (a) for any taxable year  
14 (determined after application of paragraph (1))  
15 shall not exceed the excess of—

16 “(i) the sum of the regular tax liabil-  
17 ity (as defined in section 26(b)) plus the  
18 tax imposed by section 55, over

19 “(ii) the sum of the credits allowable  
20 under subpart A (other than this section  
21 and sections 23 and 25D) and section 27  
22 for the taxable year.

23 “(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE  
24 MOTOR VEHICLE.—For purposes of this section—

1           “(1) IN GENERAL.—The term ‘new qualified  
2           plug-in electric drive motor vehicle’ means a motor  
3           vehicle (as defined in section 30(c)(2))—

4                   “(A) the original use of which commences  
5                   with the taxpayer,

6                   “(B) which is acquired for use or lease by  
7                   the taxpayer and not for resale,

8                   “(C) which is made by a manufacturer,

9                   “(D) which has a gross vehicle weight rat-  
10                  ing of less than 14,000 pounds,

11                  “(E) which has received a certificate of  
12                  conformity under the Clean Air Act and meets  
13                  or exceeds the Bin 5 Tier II emission standard  
14                  established in regulations prescribed by the Ad-  
15                  ministrators of the Environmental Protection  
16                  Agency under section 202(i) of the Clean Air  
17                  Act for that make and model year vehicle, and

18                  “(F) which is propelled to a significant ex-  
19                  tent by an electric motor which draws electricity  
20                  from a battery which—

21                   “(i) has a capacity of not less than 4  
22                   kilowatt hours, and

23                   “(ii) is capable of being recharged  
24                   from an external source of electricity.

1           “(2) EXCEPTION.—The term ‘new qualified  
2           plug-in electric drive motor vehicle’ shall not include  
3           any vehicle which is not a passenger automobile or  
4           light truck if such vehicle has a gross vehicle weight  
5           rating of less than 8,500 pounds.

6           “(3) OTHER TERMS.—The terms ‘passenger  
7           automobile’, ‘light truck’, and ‘manufacturer’ have  
8           the meanings given such terms in regulations pre-  
9           scribed by the Administrator of the Environmental  
10          Protection Agency for purposes of the administra-  
11          tion of title II of the Clean Air Act (42 U.S.C. 7521  
12          et seq.).

13          “(4) BATTERY CAPACITY.—The term ‘capacity’  
14          means, with respect to any battery, the quantity of  
15          electricity which the battery is capable of storing, ex-  
16          pressed in kilowatt hours, as measured from a 100  
17          percent state of charge to a 0 percent state of  
18          charge.

19          “(e) LIMITATION ON NUMBER OF NEW QUALIFIED  
20          PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE  
21          FOR CREDIT.—

22                 “(1) IN GENERAL.—In the case of a new quali-  
23                 fied plug-in electric drive motor vehicle sold during  
24                 the phaseout period, only the applicable percentage

1 of the credit otherwise allowable under subsection  
2 (a) shall be allowed.

3 “(2) PHASEOUT PERIOD.—For purposes of this  
4 subsection, the phaseout period is the period begin-  
5 ning with the second calendar quarter following the  
6 calendar quarter which includes the first date on  
7 which the number of new qualified plug-in electric  
8 drive motor vehicles manufactured by the manufac-  
9 turer of the vehicle referred to in paragraph (1) sold  
10 for use in the United States after the date of the en-  
11 actment of this section, is at least 60,000.

12 “(3) APPLICABLE PERCENTAGE.—For purposes  
13 of paragraph (1), the applicable percentage is—

14 “(A) 50 percent for the first 2 calendar  
15 quarters of the phaseout period,

16 “(B) 25 percent for the 3d and 4th cal-  
17 endar quarters of the phaseout period, and

18 “(C) 0 percent for each calendar quarter  
19 thereafter.

20 “(4) CONTROLLED GROUPS.—Rules similar to  
21 the rules of section 30B(f)(4) shall apply for pur-  
22 poses of this subsection.

23 “(f) SPECIAL RULES.—

24 “(1) BASIS REDUCTION.—The basis of any  
25 property for which a credit is allowable under sub-

1 section (a) shall be reduced by the amount of such  
2 credit (determined without regard to subsection (c)).

3 “(2) RECAPTURE.—The Secretary shall, by reg-  
4 ulations, provide for recapturing the benefit of any  
5 credit allowable under subsection (a) with respect to  
6 any property which ceases to be property eligible for  
7 such credit.

8 “(3) PROPERTY USED OUTSIDE UNITED  
9 STATES, ETC., NOT QUALIFIED.—No credit shall be  
10 allowed under subsection (a) with respect to any  
11 property referred to in section 50(b)(1) or with re-  
12 spect to the portion of the cost of any property  
13 taken into account under section 179.

14 “(4) ELECTION NOT TO TAKE CREDIT.—No  
15 credit shall be allowed under subsection (a) for any  
16 vehicle if the taxpayer elects to not have this section  
17 apply to such vehicle.

18 “(5) PROPERTY USED BY TAX-EXEMPT ENTITY;  
19 INTERACTION WITH AIR QUALITY AND MOTOR VEHI-  
20 CLE SAFETY STANDARDS.—Rules similar to the rules  
21 of paragraphs (6) and (10) of section 30B(h) shall  
22 apply for purposes of this section.”.

23 (b) COORDINATION WITH ALTERNATIVE MOTOR VE-  
24 HICLE CREDIT.—Section 30B(d)(3) is amended by adding  
25 at the end the following new subparagraph:

1                   “(D) EXCLUSION OF PLUG-IN VEHICLES.—  
2                   Any vehicle with respect to which a credit is al-  
3                   lowable under section 30D (determined without  
4                   regard to subsection (c) thereof) shall not be  
5                   taken into account under this section.”.

6                   (c) CREDIT MADE PART OF GENERAL BUSINESS  
7 CREDIT.—Section 38(b) is amended—

8                   (1) by striking “and” each place it appears at  
9                   the end of any paragraph,

10                   (2) by striking “plus” each place it appears at  
11                   the end of any paragraph,

12                   (3) by striking the period at the end of para-  
13                   graph (31) and inserting “, plus”, and

14                   (4) by adding at the end the following new  
15                   paragraph:

16                   “(32) the portion of the new qualified plug-in  
17                   electric drive motor vehicle credit to which section  
18                   30D(c)(1) applies.”.

19                   (d) CONFORMING AMENDMENTS.—

20                   (1)(A) Section 24(b)(3)(B), as amended by sec-  
21                   tion 104, is amended by striking “and 25D” and in-  
22                   serting “25D, and 30D”.

23                   (B) Section 25(e)(1)(C)(ii) is amended by in-  
24                   serting “30D,” after “25D,”.

1 (C) Section 25B(g)(2), as amended by section  
2 104, is amended by striking “and 25D” and insert-  
3 ing “, 25D, and 30D”.

4 (D) Section 26(a)(1), as amended by section  
5 104, is amended by striking “and 25D” and insert-  
6 ing “25D, and 30D”.

7 (E) Section 1400C(d)(2) is amended by striking  
8 “and 25D” and inserting “25D, and 30D”.

9 (2) Section 1016(a) is amended by striking  
10 “and” at the end of paragraph (36), by striking the  
11 period at the end of paragraph (37) and inserting “,  
12 and”, and by adding at the end the following new  
13 paragraph:

14 “(38) to the extent provided in section  
15 30D(f)(1).”.

16 (3) Section 6501(m) is amended by inserting  
17 “30D(f)(4),” after “30C(e)(5),”.

18 (4) The table of sections for subpart B of part  
19 IV of subchapter A of chapter 1 is amended by add-  
20 ing at the end the following new item:

“Sec. 30D. New qualified plug-in electric drive motor vehicles.”.

21 (e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE  
22 CREDIT AS A PERSONAL CREDIT.—

23 (1) IN GENERAL.—Paragraph (2) of section  
24 30B(g) is amended to read as follows:

1           “(2) PERSONAL CREDIT.—The credit allowed  
2           under subsection (a) for any taxable year (after ap-  
3           plication of paragraph (1)) shall be treated as a  
4           credit allowable under subpart A for such taxable  
5           year.”.

6           (2) CONFORMING AMENDMENTS.—

7                   (A) Subparagraph (A) of section 30C(d)(2)  
8                   is amended by striking “sections 27, 30, and  
9                   30B” and inserting “sections 27 and 30”.

10                   (B) Paragraph (3) of section 55(c) is  
11                   amended by striking “30B(g)(2),”.

12           (f) EFFECTIVE DATE.—

13                   (1) IN GENERAL.—Except as otherwise pro-  
14                   vided in this subsection, the amendments made by  
15                   this section shall apply to taxable years beginning  
16                   after December 31, 2008.

17                   (2) TREATMENT OF ALTERNATIVE MOTOR VE-  
18                   HICLE CREDIT AS PERSONAL CREDIT.—The amend-  
19                   ments made by subsection (e) shall apply to taxable  
20                   years beginning after December 31, 2007.

21           (g) APPLICATION OF EGTRRA SUNSET.—The  
22           amendment made by subsection (d)(1)(A) shall be subject  
23           to title IX of the Economic Growth and Tax Relief Rec-  
24           onciliation Act of 2001 in the same manner as the provi-  
25           sion of such Act to which such amendment relates.

1 **SEC. 128. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING**  
2 **REDUCTION UNITS AND ADVANCED INSULA-**  
3 **TION.**

4 (a) **IN GENERAL.**—Section 4053 is amended by add-  
5 ing at the end the following new paragraphs:

6 “(9) **IDLING REDUCTION DEVICE.**—Any device  
7 or system of devices which—

8 “(A) is designed to provide to a vehicle  
9 those services (such as heat, air conditioning, or  
10 electricity) that would otherwise require the op-  
11 eration of the main drive engine while the vehi-  
12 cle is temporarily parked or remains stationary  
13 using one or more devices affixed to a tractor,  
14 and

15 “(B) is certified by the Secretary of En-  
16 ergy, in consultation with the Administrator of  
17 the Environmental Protection Agency and the  
18 Secretary of Transportation, to reduce idling of  
19 such vehicle at a motor vehicle rest stop or  
20 other location where such vehicles are tempo-  
21 rarily parked or remain stationary.

22 “(10) **ADVANCED INSULATION.**—Any insulation  
23 that has an R value of not less than R35 per inch.”.

24 (b) **EFFECTIVE DATE.**—The amendment made by  
25 this section shall apply to sales or installations after the  
26 date of the enactment of this Act.

1 **SEC. 129. RESTRUCTURING OF NEW YORK LIBERTY ZONE**  
2 **TAX CREDITS.**

3 (a) IN GENERAL.—Part I of subchapter Y of chapter  
4 1 is amended by redesignating section 1400L as section  
5 1400K and by adding at the end the following new section:

6 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

7 “(a) IN GENERAL.—In the case of a New York Lib-  
8 erty Zone governmental unit, there shall be allowed as a  
9 credit against any taxes imposed for any payroll period  
10 by section 3402 for which such governmental unit is liable  
11 under section 3403 an amount equal to so much of the  
12 portion of the qualifying project expenditure amount allo-  
13 cated under subsection (b)(3) to such governmental unit  
14 for the calendar year as is allocated by such governmental  
15 unit to such period under subsection (b)(4).

16 “(b) QUALIFYING PROJECT EXPENDITURE  
17 AMOUNT.—For purposes of this section—

18 “(1) IN GENERAL.—The term ‘qualifying  
19 project expenditure amount’ means, with respect to  
20 any calendar year, the sum of—

21 “(A) the total expenditures paid or in-  
22 curred during such calendar year by all New  
23 York Liberty Zone governmental units and the  
24 Port Authority of New York and New Jersey  
25 for any portion of qualifying projects located

1 wholly within the City of New York, New York,  
2 and

3 “(B) any such expenditures—

4 “(i) paid or incurred in any preceding  
5 calendar year which begins after the date  
6 of enactment of this section, and

7 “(ii) not previously allocated under  
8 paragraph (3).

9 “(2) QUALIFYING PROJECT.—The term ‘quali-  
10 fying project’ means any transportation infrastruc-  
11 ture project, including highways, mass transit sys-  
12 tems, railroads, airports, ports, and waterways, in or  
13 connecting with the New York Liberty Zone (as de-  
14 fined in section 1400K(h)), which is designated as a  
15 qualifying project under this section jointly by the  
16 Governor of the State of New York and the Mayor  
17 of the City of New York, New York.

18 “(3) GENERAL ALLOCATION.—

19 “(A) IN GENERAL.—The Governor of the  
20 State of New York and the Mayor of the City  
21 of New York, New York, shall jointly allocate to  
22 each New York Liberty Zone governmental unit  
23 the portion of the qualifying project expenditure  
24 amount which may be taken into account by

1           such governmental unit under subsection (a) for  
2           any calendar year in the credit period.

3           “(B) AGGREGATE LIMIT.—The aggregate  
4           amount which may be allocated under subpara-  
5           graph (A) for all calendar years in the credit  
6           period shall not exceed \$2,000,000,000.

7           “(C) ANNUAL LIMIT.—The aggregate  
8           amount which may be allocated under subpara-  
9           graph (A) for any calendar year in the credit  
10          period shall not exceed the sum of—

11           “(i) \$115,000,000 (\$425,000,000 in  
12           the case of the last 2 years in the credit  
13           period), plus

14           “(ii) the aggregate amount authorized  
15           to be allocated under this paragraph for all  
16           preceding calendar years in the credit pe-  
17           riod which was not so allocated.

18          “(D) UNALLOCATED AMOUNTS AT END OF  
19          CREDIT PERIOD.—If, as of the close of the cred-  
20          it period, the amount under subparagraph (B)  
21          exceeds the aggregate amount allocated under  
22          subparagraph (A) for all calendar years in the  
23          credit period, the Governor of the State of New  
24          York and the Mayor of the City of New York,  
25          New York, may jointly allocate to New York

1 Liberty Zone governmental units for any cal-  
2 endar year in the 5-year period following the  
3 credit period an amount equal to—

4 “(i) the lesser of—

5 “(I) such excess, or

6 “(II) the qualifying project ex-  
7 penditure amount for such calendar  
8 year, reduced by

9 “(ii) the aggregate amount allocated  
10 under this subparagraph for all preceding  
11 calendar years.

12 “(4) ALLOCATION TO PAYROLL PERIODS.—

13 Each New York Liberty Zone governmental unit  
14 which has been allocated a portion of the qualifying  
15 project expenditure amount under paragraph (3) for  
16 a calendar year may allocate such portion to payroll  
17 periods beginning in such calendar year as such gov-  
18 ernmental unit determines appropriate.

19 “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

20 “(1) IN GENERAL.—Except as provided in para-  
21 graph (2), if the amount allocated under subsection  
22 (b)(3) to a New York Liberty Zone governmental  
23 unit for any calendar year exceeds the aggregate  
24 taxes imposed by section 3402 for which such gov-  
25 ernmental unit is liable under section 3403 for peri-

1       ods beginning in such year, such excess shall be car-  
2       ried to the succeeding calendar year and added to  
3       the allocation of such governmental unit for such  
4       succeeding calendar year.

5           “(2) REALLOCATION.—If a New York Liberty  
6       Zone governmental unit does not use an amount al-  
7       located to it under subsection (b)(3) within the time  
8       prescribed by the Governor of the State of New York  
9       and the Mayor of the City of New York, New York,  
10      then such amount shall after such time be treated  
11      for purposes of subsection (b)(3) in the same man-  
12      ner as if it had never been allocated.

13      “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
14      poses of this section—

15           “(1) CREDIT PERIOD.—The term ‘credit period’  
16      means the 12-year period beginning on January 1,  
17      2009.

18           “(2) NEW YORK LIBERTY ZONE GOVERN-  
19      MENTAL UNIT.—The term ‘New York Liberty Zone  
20      governmental unit’ means—

21                   “(A) the State of New York,

22                   “(B) the City of New York, New York, and

23                   “(C) any agency or instrumentality of such  
24      State or City.

1           “(3) TREATMENT OF FUNDS.—Any expenditure  
2           for a qualifying project taken into account for pur-  
3           poses of the credit under this section shall be consid-  
4           ered State and local funds for the purpose of any  
5           Federal program.

6           “(4) TREATMENT OF CREDIT AMOUNTS FOR  
7           PURPOSES OF WITHHOLDING TAXES.—For purposes  
8           of this title, a New York Liberty Zone governmental  
9           unit shall be treated as having paid to the Secretary,  
10          on the day on which wages are paid to employees,  
11          an amount equal to the amount of the credit allowed  
12          to such entity under subsection (a) with respect to  
13          such wages, but only if such governmental unit de-  
14          ducts and withholds wages for such payroll period  
15          under section 3401 (relating to wage withholding).

16          “(e) REPORTING.—The Governor of the State of New  
17          York and the Mayor of the City of New York, New York,  
18          shall jointly submit to the Secretary an annual report—

19                 “(1) which certifies—

20                         “(A) the qualifying project expenditure  
21                         amount for the calendar year, and

22                         “(B) the amount allocated to each New  
23                         York Liberty Zone governmental unit under  
24                         subsection (b)(3) for the calendar year, and

1           “(2) includes such other information as the  
2           Secretary may require to carry out this section.

3           “(f) GUIDANCE.—The Secretary may prescribe such  
4           guidance as may be necessary or appropriate to ensure  
5           compliance with the purposes of this section.”.

6           (b) TERMINATION OF SPECIAL ALLOWANCE AND EX-  
7           PENSING.—Subparagraph (A) of section 1400K(b)(2), as  
8           redesignated by subsection (a), is amended by striking the  
9           parenthetical therein and inserting “(in the case of non-  
10          residential real property and residential rental property,  
11          the date of the enactment of the Energy and Tax Extend-  
12          ers Act of 2008 or, if acquired pursuant to a binding con-  
13          tract in effect on such enactment date, December 31,  
14          2009)”.

15          (c) CONFORMING AMENDMENTS.—

16           (1) Section 38(c)(3)(B) is amended by striking  
17           “section 1400L(a)” and inserting “section  
18           1400K(a)”.

19           (2) Section 168(k)(2)(D)(ii) is amended by  
20           striking “section 1400L(c)(2)” and inserting “sec-  
21           tion 1400K(c)(2)”.

22           (3) The table of sections for part I of sub-  
23           chapter Y of chapter 1 is amended by redesignating  
24           the item relating to section 1400L as an item relat-

1 ing to section 1400K and by inserting after such  
2 item the following new item:

“Sec. 1400L. New York Liberty Zone tax credits.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

6 **SEC. 130. TRANSPORTATION FRINGE BENEFIT TO BICYCLE**  
7 **COMMUTERS.**

8 (a) **IN GENERAL.**—Paragraph (1) of section 132(f)  
9 is amended by adding at the end the following:

10 “(D) Any qualified bicycle commuting re-  
11 imbursement.”.

12 (b) **LIMITATION ON EXCLUSION.**—Paragraph (2) of  
13 section 132(f) is amended by striking “and” at the end  
14 of subparagraph (A), by striking the period at the end  
15 of subparagraph (B) and inserting “, and”, and by adding  
16 at the end the following new subparagraph:

17 “(C) the applicable annual limitation in  
18 the case of any qualified bicycle commuting re-  
19 imbursement.”.

20 (c) **DEFINITIONS.**—Paragraph (5) of section 132(f)  
21 is amended by adding at the end the following:

22 “(F) **DEFINITIONS RELATED TO BICYCLE**  
23 **COMMUTING REIMBURSEMENT.**—

24 “(i) **QUALIFIED BICYCLE COMMUTING**  
25 **REIMBURSEMENT.**—The term ‘qualified bi-

1 cycle commuting reimbursement’ means,  
2 with respect to any calendar year, any em-  
3 ployer reimbursement during the 15-month  
4 period beginning with the first day of such  
5 calendar year for reasonable expenses in-  
6 curred by the employee during such cal-  
7 endar year for the purchase of a bicycle  
8 and bicycle improvements, repair, and stor-  
9 age, if such bicycle is regularly used for  
10 travel between the employee’s residence  
11 and place of employment.

12 “(ii) APPLICABLE ANNUAL LIMITA-  
13 TION.—The term ‘applicable annual limita-  
14 tion’ means, with respect to any employee  
15 for any calendar year, the product of \$20  
16 multiplied by the number of qualified bicy-  
17 cle commuting months during such year.

18 “(iii) QUALIFIED BICYCLE COM-  
19 MUTING MONTH.—The term ‘qualified bi-  
20 cycle commuting month’ means, with re-  
21 spect to any employee, any month during  
22 which such employee—

23 “(I) regularly uses the bicycle for  
24 a substantial portion of the travel be-

1                   tween the employee’s residence and  
2                   place of employment, and

3                   “(II) does not receive any benefit  
4                   described in subparagraph (A), (B),  
5                   or (C) of paragraph (1).”.

6           (d) **CONSTRUCTIVE RECEIPT OF BENEFIT.**—Para-  
7 graph (4) of section 132(f) is amended by inserting  
8 “(other than a qualified bicycle commuting reimburse-  
9 ment)” after “qualified transportation fringe”.

10          (e) **EFFECTIVE DATE.**—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 December 31, 2008.

13 **SEC. 131. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**  
14 **ERTY CREDIT.**

15          (a) **INCREASE IN CREDIT AMOUNT.**—Section 30C is  
16 amended—

17               (1) by striking “30 percent” in subsection (a)  
18               and inserting “50 percent”, and

19               (2) by striking “\$30,000” in subsection (b)(1)  
20               and inserting “\$50,000”.

21          (b) **EXTENSION OF CREDIT.**—Paragraph (2) of sec-  
22 tion 30C(g) is amended by striking “December 31, 2009”  
23 and inserting “December 31, 2010”.

24          (c) **EFFECTIVE DATE.**—The amendments made by  
25 this section shall apply to property placed in service after

1 the date of the enactment of this Act, in taxable years  
2 ending after such date.

3 **SEC. 132. COMPREHENSIVE STUDY OF BIOFUELS.**

4 (a) STUDY.—The Secretary of the Treasury, in con-  
5 sultation with the Secretary of Agriculture, the Secretary  
6 of Energy, and the Administrator of the Environmental  
7 Protection Agency, shall enter into an agreement with the  
8 National Academy of Sciences to produce an analysis of  
9 current scientific findings to determine—

10 (1) current biofuels production, as well as pro-  
11 jections for future production,

12 (2) the maximum amount of biofuels production  
13 capable in United States forests and farmlands, in-  
14 cluding the current quantities and character of the  
15 feedstocks and including such information as re-  
16 gional forest inventories that are commercially avail-  
17 able, used in the production of biofuels,

18 (3) the domestic effects of an increase in  
19 biofuels production levels, including the effects of  
20 such levels on—

21 (A) the price of fuel,

22 (B) the price of land in rural and subur-  
23 ban communities,

24 (C) crop acreage, forest acreage, and other  
25 land use,

1 (D) the environment, due to changes in  
2 crop acreage, fertilizer use, runoff, water use,  
3 emissions from vehicles utilizing biofuels, and  
4 other factors,

5 (E) the price of feed,

6 (F) the selling price of grain crops and un-  
7 processed forest products,

8 (G) exports and imports of grains and un-  
9 processed forest products,

10 (H) taxpayers, through cost or savings to  
11 commodity crop payments, and

12 (I) the expansion of refinery capacity,

13 (4) the ability to convert corn ethanol plants for  
14 other uses, such as cellulosic ethanol or biodiesel,

15 (5) a comparative analysis of corn ethanol  
16 versus other biofuels and renewable energy sources,  
17 considering cost, energy output, and ease of imple-  
18 mentation,

19 (6) the impact of the tax credit established by  
20 section 121 of this Act on the regional agricultural  
21 and silvicultural capabilities of commercially avail-  
22 able forest inventories, and

23 (7) the need for additional scientific inquiry,  
24 and specific areas of interest for future research.

1 (b) REPORT.—The Secretary of the Treasury shall  
2 submit an initial report of the findings of the study re-  
3 quired under subsection (a) to Congress not later than 6  
4 months after the date of the enactment of this Act (36  
5 months after such date in the case of the information re-  
6 quired by subsection (a)(6)), and a final report not later  
7 than 12 months after such date (42 months after such  
8 date in the case of the information required by subsection  
9 (a)(6)).

## 10 **Subtitle C—Energy Conservation** 11 **and Efficiency Provisions**

### 12 **SEC. 141. QUALIFIED ENERGY CONSERVATION BONDS.**

13 (a) IN GENERAL.—Subpart I of part IV of sub-  
14 chapter A of chapter 1, as added by section 106, is amend-  
15 ed by adding at the end the following new section:

#### 16 **“SEC. 54C. QUALIFIED ENERGY CONSERVATION BONDS.**

17 “(a) QUALIFIED ENERGY CONSERVATION BOND.—  
18 For purposes of this subchapter, the term ‘qualified en-  
19 ergy conservation bond’ means any bond issued as part  
20 of an issue if—

21 “(1) 100 percent of the available project pro-  
22 ceeds of such issue are to be used for one or more  
23 qualified conservation purposes,

24 “(2) the bond is issued by a State or local gov-  
25 ernment, and

1           “(3) the issuer designates such bond for pur-  
2           poses of this section.

3           “(b) REDUCED CREDIT AMOUNT.—The annual credit  
4           determined under section 54A(b) with respect to any  
5           qualified energy conservation bond shall be 70 percent of  
6           the amount so determined without regard to this sub-  
7           section.

8           “(c) LIMITATION ON AMOUNT OF BONDS DES-  
9           IGNATED.—The maximum aggregate face amount of  
10          bonds which may be designated under subsection (a) by  
11          any issuer shall not exceed the limitation amount allocated  
12          to such issuer under subsection (e).

13          “(d) NATIONAL LIMITATION ON AMOUNT OF BONDS  
14          DESIGNATED.—There is a national qualified energy con-  
15          servation bond limitation of \$3,000,000,000.

16          “(e) ALLOCATIONS.—

17                 “(1) IN GENERAL.—The limitation applicable  
18                 under subsection (d) shall be allocated by the Sec-  
19                 retary among the States in proportion to the popu-  
20                 lation of the States.

21                 “(2) ALLOCATIONS TO LARGEST LOCAL GOV-  
22                 ERNMENTS.—

23                         “(A) IN GENERAL.—In the case of any  
24                         State in which there is a large local govern-  
25                         ment, each such local government shall be allo-

1 cated a portion of such State's allocation which  
2 bears the same ratio to the State's allocation  
3 (determined without regard to this subpara-  
4 graph) as the population of such large local  
5 government bears to the population of such  
6 State.

7 “(B) ALLOCATION OF UNUSED LIMITATION  
8 TO STATE.—The amount allocated under this  
9 subsection to a large local government may be  
10 reallocated by such local government to the  
11 State in which such local government is located.

12 “(C) LARGE LOCAL GOVERNMENT.—For  
13 purposes of this section, the term ‘large local  
14 government’ means any municipality or county  
15 if such municipality or county has a population  
16 of 100,000 or more.

17 “(3) ALLOCATION TO ISSUERS; RESTRICTION  
18 ON PRIVATE ACTIVITY BONDS.—Any allocation  
19 under this subsection to a State or large local gov-  
20 ernment shall be allocated by such State or large  
21 local government to issuers within the State in a  
22 manner that results in not less than 70 percent of  
23 the allocation to such State or large local govern-  
24 ment being used to designate bonds which are not  
25 private activity bonds.

1       “(f) QUALIFIED CONSERVATION PURPOSE.—For  
2 purposes of this section—

3           “(1) IN GENERAL.—The term ‘qualified con-  
4 servation purpose’ means any of the following:

5           “(A) Capital expenditures incurred for  
6 purposes of—

7           “(i) reducing energy consumption in  
8 publicly-owned buildings by at least 20  
9 percent,

10           “(ii) implementing green community  
11 programs,

12           “(iii) rural development involving the  
13 production of electricity from renewable  
14 energy resources, or

15           “(iv) any qualified facility (as deter-  
16 mined under section 45(d) without regard  
17 to paragraphs (8) and (10) thereof and  
18 without regard to any placed in service  
19 date).

20           “(B) Expenditures with respect to research  
21 facilities, and research grants, to support re-  
22 search in—

23           “(i) development of cellulosic ethanol  
24 or other nonfossil fuels,

1                   “(ii) technologies for the capture and  
2                   sequestration of carbon dioxide produced  
3                   through the use of fossil fuels,

4                   “(iii) increasing the efficiency of exist-  
5                   ing technologies for producing nonfossil  
6                   fuels,

7                   “(iv) automobile battery technologies  
8                   and other technologies to reduce fossil fuel  
9                   consumption in transportation, or

10                   “(v) technologies to reduce energy use  
11                   in buildings.

12                   “(C) Mass commuting facilities and related  
13                   facilities that reduce the consumption of energy,  
14                   including expenditures to reduce pollution from  
15                   vehicles used for mass commuting.

16                   “(D) Demonstration projects designed to  
17                   promote the commercialization of—

18                   “(i) green building technology,

19                   “(ii) conversion of agricultural waste  
20                   for use in the production of fuel or other-  
21                   wise,

22                   “(iii) advanced battery manufacturing  
23                   technologies,

24                   “(iv) technologies to reduce peak use  
25                   of electricity, or

1                   “(v) technologies for the capture and  
2                   sequestration of carbon dioxide emitted  
3                   from combusting fossil fuels in order to  
4                   produce electricity.

5                   “(E) Public education campaigns to pro-  
6                   mote energy efficiency.

7                   “(2) SPECIAL RULES FOR PRIVATE ACTIVITY  
8                   BONDS.—For purposes of this section, in the case of  
9                   any private activity bond, the term ‘qualified con-  
10                  servation purposes’ shall not include any expenditure  
11                  which is not a capital expenditure.

12                  “(g) POPULATION.—

13                  “(1) IN GENERAL.—The population of any  
14                  State or local government shall be determined for  
15                  purposes of this section as provided in section 146(j)  
16                  for the calendar year which includes the date of the  
17                  enactment of this section.

18                  “(2) SPECIAL RULE FOR COUNTIES.—In deter-  
19                  mining the population of any county for purposes of  
20                  this section, any population of such county which is  
21                  taken into account in determining the population of  
22                  any municipality which is a large local government  
23                  shall not be taken into account in determining the  
24                  population of such county.

1       “(h) APPLICATION TO INDIAN TRIBAL GOVERN-  
2 MENTS.—An Indian tribal government shall be treated for  
3 purposes of this section in the same manner as a large  
4 local government, except that—

5           “(1) an Indian tribal government shall be treat-  
6 ed for purposes of subsection (e) as located within  
7 a State to the extent of so much of the population  
8 of such government as resides within such State,  
9 and

10           “(2) any bond issued by an Indian tribal gov-  
11 ernment shall be treated as a qualified energy con-  
12 servation bond only if issued as part of an issue the  
13 available project proceeds of which are used for pur-  
14 poses for which such Indian tribal government could  
15 issue bonds to which section 103(a) applies.”.

16 (b) CONFORMING AMENDMENTS.—

17           (1) Paragraph (1) of section 54A(d), as added  
18 by section 106, is amended to read as follows:

19           “(1) QUALIFIED TAX CREDIT BOND.—The term  
20 ‘qualified tax credit bond’ means—

21           “(A) a new clean renewable energy bond,

22           or

23           “(B) a qualified energy conservation bond,  
24 which is part of an issue that meets requirements of  
25 paragraphs (2), (3), (4), (5), and (6).”.

1           (2) Subparagraph (C) of section 54A(d)(2), as  
2           added by section 106, is amended to read as follows:

3                   “(C) QUALIFIED PURPOSE.—For purposes  
4                   of this paragraph, the term ‘qualified purpose’  
5                   means—

6                           “(i) in the case of a new clean renew-  
7                           able energy bond, a purpose specified in  
8                           section 54B(a)(1), and

9                           “(ii) in the case of a qualified energy  
10                          conservation bond, a purpose specified in  
11                          section 54C(a)(1).”.

12           (3) The table of sections for subpart I of part  
13           IV of subchapter A of chapter 1 is amended by add-  
14           ing at the end the following new item:

          “Sec. 54C. Qualified energy conservation bonds.”.

15           (c) EFFECTIVE DATE.—The amendments made by  
16           this section shall apply to obligations issued after the date  
17           of the enactment of this Act.

18   **SEC. 142. CREDIT FOR NONBUSINESS ENERGY PROPERTY.**

19           (a) EXTENSION OF CREDIT.—Section 25C(g) is  
20           amended by striking “December 31, 2007” and inserting  
21           “December 31, 2008”.

22           (b) QUALIFIED BIOMASS FUEL PROPERTY.—

23                   (1) IN GENERAL.—Section 25C(d)(3) is amend-  
24                   ed—

1 (A) by striking “and” at the end of sub-  
2 paragraph (D),

3 (B) by striking the period at the end of  
4 subparagraph (E) and inserting “, and”, and

5 (C) by adding at the end the following new  
6 subparagraph:

7 “(F) a stove which uses the burning of bio-  
8 mass fuel to heat a dwelling unit located in the  
9 United States and used as a residence by the  
10 taxpayer, or to heat water for use in such a  
11 dwelling unit, and which has a thermal effi-  
12 ciency rating of at least 75 percent.”.

13 (2) BIOMASS FUEL.—Section 25C(d) is amend-  
14 ed by adding at the end the following new para-  
15 graph:

16 “(6) BIOMASS FUEL.—The term ‘biomass fuel’  
17 means any plant-derived fuel available on a renew-  
18 able or recurring basis, including agricultural crops  
19 and trees, wood and wood waste and residues (in-  
20 cluding wood pellets), plants (including aquatic  
21 plants), grasses, residues, and fibers.”.

22 (c) COORDINATION WITH CREDIT FOR QUALIFIED  
23 GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

24 (1) IN GENERAL.—Paragraph (3) of section  
25 25C(d) is amended by striking subparagraph (C)

1 and by redesignating subparagraphs (D) and (E) as  
2 subparagraphs (C) and (D), respectively.

3 (2) CONFORMING AMENDMENT.—Subparagraph  
4 (C) of section 25C(d)(2) is amended to read as fol-  
5 lows:

6 “(C) REQUIREMENTS AND STANDARDS  
7 FOR AIR CONDITIONERS AND HEAT PUMPS.—  
8 The standards and requirements prescribed by  
9 the Secretary under subparagraph (B) with re-  
10 spect to the energy efficiency ratio (EER) for  
11 central air conditioners and electric heat  
12 pumps—

13 “(i) shall require measurements to be  
14 based on published data which is tested by  
15 manufacturers at 95 degrees Fahrenheit,  
16 and

17 “(ii) may be based on the certified  
18 data of the Air Conditioning and Refrig-  
19 eration Institute that are prepared in part-  
20 nership with the Consortium for Energy  
21 Efficiency.”.

22 (d) EFFECTIVE DATE.—The amendments made this  
23 section shall apply to expenditures made after December  
24 31, 2007.

1 **SEC. 143. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**  
2 **DUCTION.**

3 Subsection (h) of section 179D is amended by strik-  
4 ing “December 31, 2008” and inserting “December 31,  
5 2013”.

6 **SEC. 144. MODIFICATIONS OF ENERGY EFFICIENT APPLI-**  
7 **ANCE CREDIT FOR APPLIANCES PRODUCED**  
8 **AFTER 2007.**

9 (a) IN GENERAL.—Subsection (b) of section 45M is  
10 amended to read as follows:

11 “(b) APPLICABLE AMOUNT.—For purposes of sub-  
12 section (a)—

13 “(1) DISHWASHERS.—The applicable amount  
14 is—

15 “(A) \$45 in the case of a dishwasher which  
16 is manufactured in calendar year 2008 or 2009  
17 and which uses no more than 324 kilowatt  
18 hours per year and 5.8 gallons per cycle, and

19 “(B) \$75 in the case of a dishwasher  
20 which is manufactured in calendar year 2008,  
21 2009, or 2010 and which uses no more than  
22 307 kilowatt hours per year and 5.0 gallons per  
23 cycle (5.5 gallons per cycle for dishwashers de-  
24 signed for greater than 12 place settings).

25 “(2) CLOTHES WASHERS.—The applicable  
26 amount is—

1           “(A) \$75 in the case of a residential top-  
2 loading clothes washer manufactured in cal-  
3 endar year 2008 which meets or exceeds a 1.72  
4 modified energy factor and does not exceed a  
5 8.0 water consumption factor,

6           “(B) \$125 in the case of a residential top-  
7 loading clothes washer manufactured in cal-  
8 endar year 2008 or 2009 which meets or ex-  
9 ceeds a 1.8 modified energy factor and does not  
10 exceed a 7.5 water consumption factor,

11           “(C) \$150 in the case of a residential or  
12 commercial clothes washer manufactured in cal-  
13 endar year 2008, 2009, or 2010 which meets or  
14 exceeds 2.0 modified energy factor and does not  
15 exceed a 6.0 water consumption factor, and

16           “(D) \$250 in the case of a residential or  
17 commercial clothes washer manufactured in cal-  
18 endar year 2008, 2009, or 2010 which meets or  
19 exceeds 2.2 modified energy factor and does not  
20 exceed a 4.5 water consumption factor.

21           “(3) REFRIGERATORS.—The applicable amount  
22 is—

23           “(A) \$50 in the case of a refrigerator  
24 which is manufactured in calendar year 2008,  
25 and consumes at least 20 percent but not more

1 than 22.9 percent less kilowatt hours per year  
2 than the 2001 energy conservation standards,

3 “(B) \$75 in the case of a refrigerator  
4 which is manufactured in calendar year 2008 or  
5 2009, and consumes at least 23 percent but no  
6 more than 24.9 percent less kilowatt hours per  
7 year than the 2001 energy conservation stand-  
8 ards,

9 “(C) \$100 in the case of a refrigerator  
10 which is manufactured in calendar year 2008,  
11 2009, or 2010, and consumes at least 25 per-  
12 cent but not more than 29.9 percent less kilo-  
13 watt hours per year than the 2001 energy con-  
14 servation standards, and

15 “(D) \$200 in the case of a refrigerator  
16 manufactured in calendar year 2008, 2009, or  
17 2010 and which consumes at least 30 percent  
18 less energy than the 2001 energy conservation  
19 standards.”.

20 (b) ELIGIBLE PRODUCTION.—

21 (1) SIMILAR TREATMENT FOR ALL APPLI-  
22 ANCES.—Subsection (c) of section 45M is amend-  
23 ed—

24 (A) by striking paragraph (2),

1 (B) by striking “(1) IN GENERAL” and all  
2 that follows through “the eligible” and inserting  
3 “The eligible”, and

4 (C) by moving the text of such subsection  
5 in line with the subsection heading and redesignating  
6 subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

8 (2) MODIFICATION OF BASE PERIOD.—Paragraph  
9 (2) of section 45M(c), as amended by paragraph  
10 (1), is amended by striking “3-calendar year”  
11 and inserting “2-calendar year”.

12 (c) TYPES OF ENERGY EFFICIENT APPLIANCES.—  
13 Subsection (d) of section 45M (defining types of energy  
14 efficient appliances) is amended to read as follows:

15 “(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—  
16 For purposes of this section, the types of energy efficient  
17 appliances are—

18 “(1) dishwashers described in subsection (b)(1),

19 “(2) clothes washers described in subsection  
20 (b)(2), and

21 “(3) refrigerators described in subsection  
22 (b)(3).”.

23 (d) AGGREGATE CREDIT AMOUNT ALLOWED.—

24 (1) INCREASE IN LIMIT.—Paragraph (1) of section  
25 45M(e) is amended to read as follows:

1           “(1) AGGREGATE CREDIT AMOUNT ALLOWED.—  
2           The aggregate amount of credit allowed under sub-  
3           section (a) with respect to a taxpayer for any tax-  
4           able year shall not exceed \$75,000,000 reduced by  
5           the amount of the credit allowed under subsection  
6           (a) to the taxpayer (or any predecessor) for all prior  
7           taxable years beginning after December 31, 2007.”.

8           (2) EXCEPTION FOR CERTAIN REFRIGERATOR  
9           AND CLOTHES WASHERS.—Paragraph (2) of section  
10          45M(e) is amended to read as follows:

11          “(2) AMOUNT ALLOWED FOR CERTAIN REFRIG-  
12          ERATORS AND CLOTHES WASHERS.—Refrigerators  
13          described in subsection (b)(3)(D) and clothes wash-  
14          ers described in subsection (b)(2)(D) shall not be  
15          taken into account under paragraph (1).”.

16          (e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

17          (1) IN GENERAL.—Paragraph (1) of section  
18          45M(f) (defining qualified energy efficient appliance)  
19          is amended to read as follows:

20          “(1) QUALIFIED ENERGY EFFICIENT APPLI-  
21          ANCE.—The term ‘qualified energy efficient appli-  
22          ance’ means—

23                  “(A) any dishwasher described in sub-  
24                  section (b)(1),

1           “(B) any clothes washer described in sub-  
2           section (b)(2), and

3           “(C) any refrigerator described in sub-  
4           section (b)(3).”.

5           (2) CLOTHES WASHER.—Section 45M(f)(3) is  
6           amended by inserting “commercial” before “residen-  
7           tial” the second place it appears.

8           (3) TOP-LOADING CLOTHES WASHER.—Sub-  
9           section (f) of section 45M is amended by redesign-  
10          nating paragraphs (4), (5), (6), and (7) as para-  
11          graphs (5), (6), (7), and (8), respectively, and by in-  
12          serting after paragraph (3) the following new para-  
13          graph:

14          “(4) TOP-LOADING CLOTHES WASHER.—The  
15          term ‘top-loading clothes washer’ means a clothes  
16          washer which has the clothes container compartment  
17          access located on the top of the machine and which  
18          operates on a vertical axis.”.

19          (4) REPLACEMENT OF ENERGY FACTOR.—Sec-  
20          tion 45M(f)(6), as redesignated by paragraph (3), is  
21          amended to read as follows:

22          “(6) MODIFIED ENERGY FACTOR.—The term  
23          ‘modified energy factor’ means the modified energy  
24          factor established by the Department of Energy for

1 compliance with the Federal energy conservation  
2 standard.”.

3 (5) GALLONS PER CYCLE; WATER CONSUMP-  
4 TION FACTOR.—Section 45M(f), as amended by  
5 paragraph (3), is amended by adding at the end the  
6 following:

7 “(9) GALLONS PER CYCLE.—The term ‘gallons  
8 per cycle’ means, with respect to a dishwasher, the  
9 amount of water, expressed in gallons, required to  
10 complete a normal cycle of a dishwasher.

11 “(10) WATER CONSUMPTION FACTOR.—The  
12 term ‘water consumption factor’ means, with respect  
13 to a clothes washer, the quotient of the total weight-  
14 ed per-cycle water consumption divided by the cubic  
15 foot (or liter) capacity of the clothes washer.”.

16 (f) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply to appliances produced after De-  
18 cember 31, 2007.

19 **SEC. 145. ACCELERATED RECOVERY PERIOD FOR DEPRE-**  
20 **CIATION OF SMART METERS AND SMART**  
21 **GRID SYSTEMS.**

22 (a) IN GENERAL.—Section 168(e)(3)(D) is amended  
23 by striking “and” at the end of clause (i), by striking the  
24 period at the end of clause (ii) and inserting “, and”, and  
25 by inserting after clause (ii) the following new clauses:

1                   “(iii) any qualified smart electric  
2                   meter, and

3                   “(iv) any qualified smart electric grid  
4                   system.”.

5           (b) DEFINITIONS.—Section 168(i) is amended by in-  
6   serting at the end the following new paragraph:

7                   “(18) QUALIFIED SMART ELECTRIC METERS.—

8                   “(A) IN GENERAL.—The term ‘qualified  
9                   smart electric meter’ means any smart electric  
10                  meter which is placed in service by a taxpayer  
11                  who is a supplier of electric energy or a pro-  
12                  vider of electric energy services.

13                  “(B) SMART ELECTRIC METER.—For pur-  
14                  poses of subparagraph (A), the term ‘smart  
15                  electric meter’ means any time-based meter and  
16                  related communication equipment which is ca-  
17                  pable of being used by the taxpayer as part of  
18                  a system that—

19                           “(i) measures and records electricity  
20                           usage data on a time-differentiated basis  
21                           in at least 24 separate time segments per  
22                           day,

23                           “(ii) provides for the exchange of in-  
24                           formation between supplier or provider and  
25                           the customer’s electric meter in support of

1 time-based rates or other forms of demand  
2 response,

3 “(iii) provides data to such supplier or  
4 provider so that the supplier or provider  
5 can provide energy usage information to  
6 customers electronically, and

7 “(iv) provides net metering.

8 “(19) QUALIFIED SMART ELECTRIC GRID SYS-  
9 TEMS.—

10 “(A) IN GENERAL.—The term ‘qualified  
11 smart electric grid system’ means any smart  
12 grid property used as part of a system for elec-  
13 tric distribution grid communications, moni-  
14 toring, and management placed in service by a  
15 taxpayer who is a supplier of electric energy or  
16 a provider of electric energy services.

17 “(B) SMART GRID PROPERTY.—For the  
18 purposes of subparagraph (A), the term ‘smart  
19 grid property’ means electronics and related  
20 equipment that is capable of—

21 “(i) sensing, collecting, and moni-  
22 toring data of or from all portions of a  
23 utility’s electric distribution grid,

1                   “(ii) providing real-time, two-way  
2                   communications to monitor or manage  
3                   such grid, and

4                   “(iii) providing real time analysis of  
5                   and event prediction based upon collected  
6                   data that can be used to improve electric  
7                   distribution system reliability, quality, and  
8                   performance.”.

9           (c) CONTINUED APPLICATION OF 150 PERCENT DE-  
10 CLINING BALANCE METHOD.—Paragraph (2) of section  
11 168(b) is amended by striking “or” at the end of subpara-  
12 graph (B), by redesignating subparagraph (C) as subpara-  
13 graph (D), and by inserting after subparagraph (B) the  
14 following new subparagraph:

15                   “(C) any property (other than property de-  
16                   scribed in paragraph (3)) which is a qualified  
17                   smart electric meter or qualified smart electric  
18                   grid system, or”.

19           (d) EFFECTIVE DATE.—The amendments made by  
20 this section shall apply to property placed in service after  
21 the date of the enactment of this Act.

1 **SEC. 146. QUALIFIED GREEN BUILDING AND SUSTAINABLE**  
2 **DESIGN PROJECTS.**

3 (a) IN GENERAL.—Paragraph (8) of section 142(l)  
4 is amended by striking “September 30, 2009” and insert-  
5 ing “September 30, 2012”.

6 (b) TREATMENT OF CURRENT REFUNDING  
7 BONDS.—Paragraph (9) of section 142(l) is amended by  
8 striking “October 1, 2009” and inserting “October 1,  
9 2012”.

10 (c) ACCOUNTABILITY.—The second sentence of sec-  
11 tion 701(d) of the American Jobs Creation Act of 2004  
12 is amended by striking “issuance,” and inserting  
13 “issuance of the last issue with respect to such project,”.

14 **TITLE II—ONE-YEAR EXTENSION**  
15 **OF TEMPORARY PROVISIONS**  
16 **Subtitle A—Extensions Primarily**  
17 **Affecting Individuals**

18 **SEC. 201. DEDUCTION FOR STATE AND LOCAL SALES**  
19 **TAXES.**

20 (a) IN GENERAL.—Subparagraph (I) of section  
21 164(b)(5) is amended by striking “January 1, 2008” and  
22 inserting “January 1, 2009”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2007.

1 **SEC. 202. DEDUCTION OF QUALIFIED TUITION AND RE-**  
2 **LATED EXPENSES.**

3 (a) **IN GENERAL.**—Subsection (e) of section 222 is  
4 amended by striking “December 31, 2007” and inserting  
5 “December 31, 2008”.

6 (b) **EFFECTIVE DATE.**—The amendment made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2007.

9 **SEC. 203. TREATMENT OF CERTAIN DIVIDENDS OF REGU-**  
10 **LATED INVESTMENT COMPANIES.**

11 (a) **INTEREST-RELATED DIVIDENDS.**—Subpara-  
12 graph (C) of section 871(k)(1) (defining interest-related  
13 dividend) is amended by striking “December 31, 2007”  
14 and inserting “December 31, 2008”.

15 (b) **SHORT-TERM CAPITAL GAIN DIVIDENDS.**—Sub-  
16 paragraph (C) of section 871(k)(2) (defining short-term  
17 capital gain dividend) is amended by striking “December  
18 31, 2007” and inserting “December 31, 2008”.

19 (c) **EFFECTIVE DATE.**—The amendments made by  
20 this section shall apply to dividends with respect to taxable  
21 years of regulated investment companies beginning after  
22 December 31, 2007.

23 **SEC. 204. QUALIFIED CONSERVATION CONTRIBUTIONS.**

24 (a) **IN GENERAL.**—Paragraphs (1)(E)(vi) and  
25 (2)(B)(iii) of section 170(b) are each amended by striking

1 “December 31, 2007” and inserting “December 31,  
2 2008”.

3 (b) EFFECTIVE DATE.—The amendment made by  
4 this section shall apply to contributions made in taxable  
5 years beginning after December 31, 2007.

6 **SEC. 205. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RE-**  
7 **TIREMENT PLANS FOR CHARITABLE PUR-**  
8 **POSES.**

9 (a) IN GENERAL.—Subparagraph (F) of section  
10 408(d)(8) is amended by striking “December 31, 2007”  
11 and inserting “December 31, 2008”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to distributions made in taxable  
14 years beginning after December 31, 2007.

15 **SEC. 206. DEDUCTION FOR CERTAIN EXPENSES OF ELE-**  
16 **MENTARY AND SECONDARY SCHOOL TEACH-**  
17 **ERS.**

18 (a) IN GENERAL.—Subparagraph (D) of section  
19 62(a)(2) is amended by striking “or 2007” and inserting  
20 “2007, or 2008”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall apply to taxable years beginning after  
23 December 31, 2007.

1 **SEC. 207. ELECTION TO INCLUDE COMBAT PAY AS EARNED**  
2 **INCOME FOR PURPOSES OF EARNED INCOME**  
3 **TAX CREDIT.**

4 (a) IN GENERAL.—Subclause (II) of section  
5 32(c)(2)(B)(vi) (defining earned income) is amended by  
6 striking “January 1, 2008” and inserting “January 1,  
7 2009”.

8 (b) CONFORMING AMENDMENT.—Paragraph (4) of  
9 section 6428(e) is amended by striking “except that” and  
10 all that follows through “such term” and inserting “except  
11 that such term”.

12 (c) EFFECTIVE DATE.—The amendment made by  
13 this section shall apply to taxable years ending after De-  
14 cember 31, 2007.

15 **SEC. 208. MODIFICATION OF MORTGAGE REVENUE BONDS**  
16 **FOR VETERANS.**

17 (a) QUALIFIED MORTGAGE BONDS USED TO FI-  
18 NANCE RESIDENCES FOR VETERANS WITHOUT REGARD  
19 TO FIRST-TIME HOMEBUYER REQUIREMENT.—Subpara-  
20 graph (D) of section 143(d)(2) is amended by striking  
21 “January 1, 2008” and inserting “January 1, 2009”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 this section shall apply to bonds issued after December  
24 31, 2007.

1 **SEC. 209. DISTRIBUTIONS FROM RETIREMENT PLANS TO**  
2 **INDIVIDUALS CALLED TO ACTIVE DUTY.**

3 (a) IN GENERAL.—Clause (iv) of section 72(t)(2)(G)  
4 is amended by striking “December 31, 2007” and insert-  
5 ing “January 1, 2009”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to individuals ordered or called to  
8 active duty on or after December 31, 2007.

9 **SEC. 210. STOCK IN RIC FOR PURPOSES OF DETERMINING**  
10 **ESTATES OF NONRESIDENTS NOT CITIZENS.**

11 (a) IN GENERAL.—Paragraph (3) of section 2105(d)  
12 is amended by striking “December 31, 2007” and insert-  
13 ing “December 31, 2008”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to decedents dying after December  
16 31, 2007.

17 **SEC. 211. QUALIFIED INVESTMENT ENTITIES.**

18 (a) IN GENERAL.—Clause (ii) of section  
19 897(h)(4)(A) is amended by striking “December 31,  
20 2007” and inserting “December 31, 2008”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall take effect on January 1, 2008, except  
23 that such amendment shall not apply to the application  
24 of withholding requirements with respect to any payment  
25 made on or before the date of the enactment of this Act.

1 **SEC. 212. EXCLUSION OF AMOUNTS RECEIVED UNDER**  
2 **QUALIFIED GROUP LEGAL SERVICES PLANS.**

3 (a) IN GENERAL.—Subsection (e) of section 120 is  
4 amended by striking “shall not apply to taxable years be-  
5 ginning after June 30, 1992” and inserting “shall apply  
6 to taxable years beginning after December 31, 2007, and  
7 before January 1, 2009”.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 2007.

11 **Subtitle B—Extensions Primarily**  
12 **Affecting Businesses**

13 **SEC. 221. RESEARCH CREDIT.**

14 (a) IN GENERAL.—Subparagraph (B) of section  
15 41(h)(1) is amended by striking “December 31, 2007”  
16 and inserting “December 31, 2008”.

17 (b) COMPUTATION OF CREDIT FOR TAXABLE YEAR  
18 IN WHICH CREDIT TERMINATES.—Paragraph (2) of sec-  
19 tion 41(h) is amended to read as follows:

20 “(2) COMPUTATION OF CREDIT FOR TAXABLE  
21 YEAR IN WHICH CREDIT TERMINATES.—

22 “(A) IN GENERAL.—In the case of any  
23 taxable year with respect to which this section  
24 applies to a number of days which is less than  
25 the total number of days in such taxable year,  
26 the applicable base amount with respect to such

1 taxable year shall be the amount which bears  
2 the same ratio to such applicable amount (de-  
3 termined without regard to this paragraph) as  
4 the number of days in such taxable year to  
5 which this section applies bears to the total  
6 number of days in such taxable year.

7 “(B) APPLICABLE BASE AMOUNT.—For  
8 purposes of subparagraph (A), the term ‘appli-  
9 cable base amount’ means, with respect to any  
10 taxable year—

11 “(i) except as otherwise provided in  
12 this subparagraph, the base amount for  
13 the taxable year,

14 “(ii) in the case of a taxable year with  
15 respect to which an election under sub-  
16 section (c)(4) (relating to election of alter-  
17 native incremental credit) is in effect, the  
18 average described in subsection (c)(1)(B)  
19 for the taxable year, and

20 “(iii) in the case of a taxable year  
21 with respect to which an election under  
22 subsection (c)(5) (relating to election of al-  
23 ternative simplified credit) is in effect, the  
24 average qualified research expenses for the

1                   3 taxable years preceding the taxable  
2                   year.”.

3           (c) CONFORMING AMENDMENT.—Subparagraph (D)  
4 of section 45C(b)(1) is amended by striking “December  
5 31, 2007” and inserting “December 31, 2008”.

6           (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to amounts paid or incurred after  
8 December 31, 2007.

9 **SEC. 222. INDIAN EMPLOYMENT CREDIT.**

10          (a) IN GENERAL.—Subsection (f) of section 45A is  
11 amended by striking “December 31, 2007” and inserting  
12 “December 31, 2008”.

13          (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall apply to taxable years beginning after  
15 December 31, 2007.

16 **SEC. 223. NEW MARKETS TAX CREDIT.**

17          Subparagraph (D) of section 45D(f)(1) is amended  
18 by striking “and 2008” and inserting “2008, and 2009”.

19 **SEC. 224. RAILROAD TRACK MAINTENANCE.**

20          (a) IN GENERAL.—Subsection (f) of section 45G is  
21 amended by striking “January 1, 2008” and inserting  
22 “January 1, 2009”.

23          (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to expenditures paid or incurred  
25 during taxable years beginning after December 31, 2007.

1 **SEC. 225. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**  
2 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**  
3 **AND QUALIFIED RESTAURANT PROPERTY.**

4 (a) IN GENERAL.—Clauses (iv) and (v) of section  
5 168(e)(3)(E) are each amended by striking “January 1,  
6 2008” and inserting “January 1, 2009”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to property placed in service after  
9 December 31, 2007.

10 **SEC. 226. SEVEN-YEAR COST RECOVERY PERIOD FOR MO-**  
11 **TOSPORTS RACING TRACK FACILITY.**

12 (a) IN GENERAL.—Subparagraph (D) of section  
13 168(i)(15) is amended by striking “December 31, 2007”  
14 and inserting “December 31, 2008”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to property placed in service after  
17 December 31, 2007.

18 **SEC. 227. ACCELERATED DEPRECIATION FOR BUSINESS**  
19 **PROPERTY ON INDIAN RESERVATION.**

20 (a) IN GENERAL.—Paragraph (8) of section 168(j)  
21 is amended by striking “December 31, 2007” and insert-  
22 ing “December 31, 2008”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to property placed in service after  
25 December 31, 2007.

1 **SEC. 228. EXPENSING OF ENVIRONMENTAL REMEDIATION**  
2 **COSTS.**

3 (a) IN GENERAL.—Subsection (h) of section 198 is  
4 amended by striking “December 31, 2007” and inserting  
5 “December 31, 2008”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply to expenditures paid or incurred  
8 after December 31, 2007.

9 **SEC. 229. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**  
10 **COME ATTRIBUTABLE TO DOMESTIC PRO-**  
11 **DUCTION ACTIVITIES IN PUERTO RICO.**

12 (a) IN GENERAL.—Subparagraph (C) of section  
13 199(d)(8) is amended—

14 (1) by striking “first 2 taxable years” and in-  
15 serting “first 3 taxable years”, and

16 (2) by striking “January 1, 2008” and insert-  
17 ing “January 1, 2009”.

18 (b) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to taxable years beginning after  
20 December 31, 2007.

21 **SEC. 230. MODIFICATION OF TAX TREATMENT OF CERTAIN**  
22 **PAYMENTS TO CONTROLLING EXEMPT ORGA-**  
23 **NIZATIONS.**

24 (a) IN GENERAL.—Clause (iv) of section  
25 512(b)(13)(E) is amended by striking “December 31,  
26 2007” and inserting “December 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to payments received or accrued  
3 after December 31, 2007.

4 **SEC. 231. QUALIFIED ZONE ACADEMY BONDS.**

5 (a) IN GENERAL.—Subpart I of part IV of sub-  
6 chapter A of chapter 1, as amended by sections 106 and  
7 141, is amended by adding at the end the following new  
8 section:

9 **“SEC. 54D. QUALIFIED ZONE ACADEMY BONDS.**

10 “(a) QUALIFIED ZONE ACADEMY BONDS.—For pur-  
11 poses of this subchapter, the term ‘qualified zone academy  
12 bond’ means any bond issued as part of an issue if—

13 “(1) 100 percent of the available project pro-  
14 ceeds of such issue are to be used for a qualified  
15 purpose with respect to a qualified zone academy es-  
16 tablished by an eligible local education agency,

17 “(2) the bond is issued by a State or local gov-  
18 ernment within the jurisdiction of which such acad-  
19 emy is located, and

20 “(3) the issuer—

21 “(A) designates such bond for purposes of  
22 this section,

23 “(B) certifies that it has written assur-  
24 ances that the private business contribution re-

1           requirement of subsection (b) will be met with re-  
2           spect to such academy, and

3                   “(C) certifies that it has the written ap-  
4           proval of the eligible local education agency for  
5           such bond issuance.

6           “(b) PRIVATE BUSINESS CONTRIBUTION REQUIRE-  
7   MENT.—For purposes of subsection (a), the private busi-  
8   ness contribution requirement of this subsection is met  
9   with respect to any issue if the eligible local education  
10   agency that established the qualified zone academy has  
11   written commitments from private entities to make quali-  
12   fied contributions having a present value (as of the date  
13   of issuance of the issue) of not less than 10 percent of  
14   the proceeds of the issue.

15           “(c) LIMITATION ON AMOUNT OF BONDS DES-  
16   IGNATED.—

17                   “(1) NATIONAL LIMITATION.—There is a na-  
18   tional zone academy bond limitation for each cal-  
19   endar year. Such limitation is \$400,000,000 for  
20   2008, and, except as provided in paragraph (4), zero  
21   thereafter.

22                   “(2) ALLOCATION OF LIMITATION.—The na-  
23   tional zone academy bond limitation for a calendar  
24   year shall be allocated by the Secretary among the  
25   States on the basis of their respective populations of

1 individuals below the poverty line (as defined by the  
2 Office of Management and Budget). The limitation  
3 amount allocated to a State under the preceding  
4 sentence shall be allocated by the State education  
5 agency to qualified zone academies within such  
6 State.

7 “(3) DESIGNATION SUBJECT TO LIMITATION  
8 AMOUNT.—The maximum aggregate face amount of  
9 bonds issued during any calendar year which may be  
10 designated under subsection (a) with respect to any  
11 qualified zone academy shall not exceed the limita-  
12 tion amount allocated to such academy under para-  
13 graph (2) for such calendar year.

14 “(4) CARRYOVER OF UNUSED LIMITATION.—

15 “(A) IN GENERAL.—If for any calendar  
16 year—

17 “(i) the limitation amount for any  
18 State, exceeds

19 “(ii) the amount of bonds issued dur-  
20 ing such year which are designated under  
21 subsection (a) with respect to qualified  
22 zone academies within such State,

23 the limitation amount for such State for the fol-  
24 lowing calendar year shall be increased by the  
25 amount of such excess.

1           “(B) LIMITATION ON CARRYOVER.—Any  
2           carryforward of a limitation amount may be  
3           carried only to the first 2 years following the  
4           unused limitation year. For purposes of the pre-  
5           ceding sentence, a limitation amount shall be  
6           treated as used on a first-in first-out basis.

7           “(C) COORDINATION WITH SECTION  
8           1397E.—Any carryover determined under sec-  
9           tion 1397E(e)(4) (relating to carryover of un-  
10          used limitation) with respect to any State to  
11          calendar year 2008 shall be treated for pur-  
12          poses of this section as a carryover with respect  
13          to such State for such calendar year under sub-  
14          paragraph (A), and the limitation of subpara-  
15          graph (B) shall apply to such carryover taking  
16          into account the calendar years to which such  
17          carryover relates.

18          “(d) DEFINITIONS.—For purposes of this section—

19               “(1) QUALIFIED ZONE ACADEMY.—The term  
20               ‘qualified zone academy’ means any public school (or  
21               academic program within a public school) which is  
22               established by and operated under the supervision of  
23               an eligible local education agency to provide edu-  
24               cation or training below the postsecondary level if—

1           “(A) such public school or program (as the  
2 case may be) is designed in cooperation with  
3 business to enhance the academic curriculum,  
4 increase graduation and employment rates, and  
5 better prepare students for the rigors of college  
6 and the increasingly complex workforce,

7           “(B) students in such public school or pro-  
8 gram (as the case may be) will be subject to the  
9 same academic standards and assessments as  
10 other students educated by the eligible local  
11 education agency,

12           “(C) the comprehensive education plan of  
13 such public school or program is approved by  
14 the eligible local education agency, and

15           “(D)(i) such public school is located in an  
16 empowerment zone or enterprise community  
17 (including any such zone or community des-  
18 ignated after the date of the enactment of this  
19 section), or

20           “(ii) there is a reasonable expectation (as  
21 of the date of issuance of the bonds) that at  
22 least 35 percent of the students attending such  
23 school or participating in such program (as the  
24 case may be) will be eligible for free or reduced-

1 cost lunches under the school lunch program es-  
2 tablished under the National School Lunch Act.

3 “(2) ELIGIBLE LOCAL EDUCATION AGENCY.—

4 For purposes of this section, the term ‘eligible local  
5 education agency’ means any local educational agen-  
6 cy as defined in section 9101 of the Elementary and  
7 Secondary Education Act of 1965.

8 “(3) QUALIFIED PURPOSE.—The term ‘quali-  
9 fied purpose’ means, with respect to any qualified  
10 zone academy—

11 “(A) rehabilitating or repairing the public  
12 school facility in which the academy is estab-  
13 lished,

14 “(B) providing equipment for use at such  
15 academy,

16 “(C) developing course materials for edu-  
17 cation to be provided at such academy, and

18 “(D) training teachers and other school  
19 personnel in such academy.

20 “(4) QUALIFIED CONTRIBUTIONS.—The term  
21 ‘qualified contribution’ means any contribution (of a  
22 type and quality acceptable to the eligible local edu-  
23 cation agency) of—

1           “(A) equipment for use in the qualified  
2           zone academy (including state-of-the-art tech-  
3           nology and vocational equipment),

4           “(B) technical assistance in developing  
5           curriculum or in training teachers in order to  
6           promote appropriate market driven technology  
7           in the classroom,

8           “(C) services of employees as volunteer  
9           mentors,

10           “(D) internships, field trips, or other edu-  
11           cational opportunities outside the academy for  
12           students, or

13           “(E) any other property or service speci-  
14           fied by the eligible local education agency.”.

15       (b) CONFORMING AMENDMENTS.—

16           (1) Paragraph (1) of section 54A(d), as amend-  
17           ed by sections 106 and 141, is amended by striking  
18           “or” at the end of subparagraph (A), by inserting  
19           “or” at the end of subparagraph (B), and by insert-  
20           ing after subparagraph (B) the following new sub-  
21           paragraph:

22           “(C) a qualified zone academy bond,”.

23           (2) Subparagraph (C) of section 54A(d)(2), as  
24           amended by sections 106 and 141, is amended by  
25           striking “and” at the end of clause (i), by striking

1 the period at the end of clause (ii) and inserting “,  
2 and”, and by adding at the end the following new  
3 clause:

4 “(iii) in the case of a qualified zone  
5 academy bond, a purpose specified in sec-  
6 tion 54D(a)(1).”.

7 (3) Section 1397E is amended by adding at the  
8 end the following new subsection:

9 “(m) TERMINATION.—This section shall not apply to  
10 any obligation issued after the date of the enactment of  
11 this Act.”.

12 (4) The table of sections for subpart I of part  
13 IV of subchapter A of chapter 1 is amended by add-  
14 ing at the end the following new item:

“Sec. 54D. Qualified zone academy bonds.”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to obligations issued after the date  
17 of the enactment of this Act.

18 **SEC. 232. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
19 **TRICT OF COLUMBIA.**

20 (a) DESIGNATION OF ZONE.—

21 (1) IN GENERAL.—Subsection (f) of section  
22 1400 is amended by striking “2007” both places it  
23 appears and inserting “2008”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to periods beginning  
3           after December 31, 2007.

4           (b) TAX-EXEMPT ECONOMIC DEVELOPMENT  
5 BONDS.—

6           (1) IN GENERAL.—Subsection (b) of section  
7           1400A is amended by striking “2007” and inserting  
8           “2008”.

9           (2) EFFECTIVE DATE.—The amendment made  
10          by this subsection shall apply to bonds issued after  
11          December 31, 2007.

12          (c) ZERO PERCENT CAPITAL GAINS RATE.—

13          (1) IN GENERAL.—Subsection (b) of section  
14          1400B is amended by striking “2008” each place it  
15          appears and inserting “2009”.

16          (2) CONFORMING AMENDMENTS.—

17                (A) Section 1400B(e)(2) is amended—

18                   (i) by striking “2012” and inserting  
19                   “2013”, and

20                   (ii) by striking “2012” in the heading  
21                   thereof and inserting “2013”.

22                (B) Section 1400B(g)(2) is amended by  
23                   striking “2012” and inserting “2013”.

24                (C) Section 1400F(d) is amended by strik-  
25                   ing “2012” and inserting “2013”.

1 (3) EFFECTIVE DATES.—

2 (A) EXTENSION.—The amendments made  
3 by paragraph (1) shall apply to acquisitions  
4 after December 31, 2007.

5 (B) CONFORMING AMENDMENTS.—The  
6 amendments made by paragraph (2) shall take  
7 effect on the date of the enactment of this Act.

8 (d) FIRST-TIME HOMEBUYER CREDIT.—

9 (1) IN GENERAL.—Subsection (i) of section  
10 1400C is amended by striking “2008” and inserting  
11 “2009”.

12 (2) EFFECTIVE DATE.—The amendment made  
13 by this subsection shall apply to property purchased  
14 after December 31, 2007.

15 **SEC. 233. ECONOMIC DEVELOPMENT CREDIT FOR AMER-**  
16 **ICAN SAMOA.**

17 (a) IN GENERAL.—Subsection (d) of section 119 of  
18 division A of the Tax Relief and Health Care Act of 2006  
19 is amended—

20 (1) by striking “first two taxable years” and in-  
21 serting “first 3 taxable years”, and

22 (2) by striking “January 1, 2008” and insert-  
23 ing “January 1, 2009”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2007.

4 **SEC. 234. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
5 **TRIBUTIONS OF FOOD INVENTORY.**

6 (a) IN GENERAL.—Clause (iv) of section  
7 170(e)(3)(C) is amended by striking “December 31,  
8 2007” and inserting “December 31, 2008”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to contributions made after De-  
11 cember 31, 2007.

12 **SEC. 235. ENHANCED CHARITABLE DEDUCTION FOR CON-**  
13 **TRIBUTIONS OF BOOK INVENTORY TO PUB-**  
14 **LIC SCHOOLS.**

15 (a) IN GENERAL.—Clause (iv) of section  
16 170(e)(3)(D) is amended by striking “December 31,  
17 2007” and inserting “December 31, 2008”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply to contributions made after De-  
20 cember 31, 2007.

21 **SEC. 236. ENHANCED DEDUCTION FOR QUALIFIED COM-**  
22 **PUTER CONTRIBUTIONS.**

23 (a) IN GENERAL.—Subparagraph (G) of section  
24 170(e)(6) is amended by striking “December 31, 2007”  
25 and inserting “December 31, 2008”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to contributions made during tax-  
3 able years beginning after December 31, 2007.

4 **SEC. 237. BASIS ADJUSTMENT TO STOCK OF S CORPORA-**  
5 **TIONS MAKING CHARITABLE CONTRIBU-**  
6 **TIONS OF PROPERTY.**

7 (a) IN GENERAL.—The last sentence of section  
8 1367(a)(2) is amended by striking “December 31, 2007”  
9 and inserting “December 31, 2008”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to contributions made in taxable  
12 years beginning after December 31, 2007.

13 **SEC. 238. WORK OPPORTUNITY TAX CREDIT FOR HURRI-**  
14 **CANE KATRINA EMPLOYEES.**

15 (a) IN GENERAL.—Paragraph (1) of section 201(b)  
16 of the Katrina Emergency Tax Relief Act of 2005 is  
17 amended by striking “2-year” and inserting “3-year”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall apply to individuals hired after August  
20 27, 2007.

21 **SEC. 239. SUBPART F EXCEPTION FOR ACTIVE FINANCING**  
22 **INCOME.**

23 (a) EXEMPT INSURANCE INCOME.—Paragraph (10)  
24 of section 953(e) (relating to application) is amended—

1 (1) by striking “January 1, 2009” and insert-  
2 ing “January 1, 2010”, and

3 (2) by striking “December 31, 2008” and in-  
4 serting “December 31, 2009”.

5 (b) EXCEPTION TO TREATMENT AS FOREIGN PER-  
6 SONAL HOLDING COMPANY INCOME.—Paragraph (9) of  
7 section 954(h) (relating to application) is amended by  
8 striking “January 1, 2009” and inserting “January 1,  
9 2010”.

10 **SEC. 240. LOOK-THRU RULE FOR RELATED CONTROLLED**  
11 **FOREIGN CORPORATIONS.**

12 (a) IN GENERAL.—Subparagraph (B) of section  
13 954(c)(6) (relating to application) is amended by striking  
14 “January 1, 2009” and inserting “January 1, 2010”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to taxable years of foreign corpora-  
17 tions beginning after December 31, 2008, and to taxable  
18 years of United States shareholders with or within which  
19 such taxable years of foreign corporations end.

20 **SEC. 241. EXPENSING FOR CERTAIN QUALIFIED FILM AND**  
21 **TELEVISION PRODUCTIONS.**

22 (a) IN GENERAL.—Subsection (f) of section 181 is  
23 amended by striking “December 31, 2008” and inserting  
24 “December 31, 2009”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to productions commencing after  
3 December 31, 2008.

## 4 **Subtitle C—Other Extensions**

### 5 **SEC. 251. AUTHORITY TO DISCLOSE INFORMATION RE-** 6 **LATED TO TERRORIST ACTIVITIES MADE** 7 **PERMANENT.**

8 (a) IN GENERAL.—Subparagraph (C) of section  
9 6103(i)(3) is amended by striking clause (iv).

10 (b) DISCLOSURE ON REQUEST.—Paragraph (7) of  
11 section 6103(i) is amended by striking subparagraph (E).

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to disclosures after the date of the  
14 enactment of this Act.

### 15 **SEC. 252. AUTHORITY FOR UNDERCOVER OPERATIONS** 16 **MADE PERMANENT.**

17 (a) IN GENERAL.—Subsection (c) of section 7608 is  
18 amended by striking paragraph (6).

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall take effect on January 1, 2008.

### 21 **SEC. 253. AUTHORITY TO DISCLOSE RETURN INFORMATION** 22 **FOR CERTAIN VETERANS PROGRAMS MADE** 23 **PERMANENT.**

24 (a) IN GENERAL.—Paragraph (7) of section 6103(l)  
25 is amended by striking the last sentence thereof.

1 (b) CONFORMING AMENDMENT.—Section  
2 6103(l)(7)(D)(viii)(III) is amended by striking “sections  
3 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)”  
4 and inserting “sections 1710(a)(2)(G), 1710(a)(3), and  
5 1710(b)”.

6 (c) EFFECTIVE DATE.—The amendment made by  
7 subsection (a) shall apply to requests made after Sep-  
8 tember 30, 2008.

9 **SEC. 254. INCREASE IN LIMIT ON COVER OVER OF RUM EX-**  
10 **CISE TAX TO PUERTO RICO AND THE VIRGIN**  
11 **ISLANDS.**

12 (a) IN GENERAL.—Paragraph (1) of section 7652(f)  
13 is amended by striking “January 1, 2008” and inserting  
14 “January 1, 2009”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 this section shall apply to distilled spirits brought into the  
17 United States after December 31, 2007.

18 **SEC. 255. PARITY IN THE APPLICATION OF CERTAIN LIMITS**  
19 **TO MENTAL HEALTH BENEFITS.**

20 Subsection (f) of section 9812 is amended—

21 (1) by striking “and” at the end of paragraph

22 (2), and

23 (2) by striking paragraph (3) and inserting the  
24 following new paragraphs:

1           “(3) on or after January 1, 2008, and before  
2           the date of the enactment of the Energy and Tax  
3           Extenders Act of 2008, and

4           “(4) after December 31, 2008.”.

5           **TITLE I—ADDITIONAL TAX**  
6           **RELIEF**

7           **Subtitle A—Individual Tax Relief**

8           **SEC. 301. ADDITIONAL STANDARD DEDUCTION FOR REAL**  
9           **PROPERTY TAXES FOR NONITEMIZERS.**

10          (a) IN GENERAL.—Section 63(c)(1) (defining stand-  
11          ard deduction) is amended by striking “and” at the end  
12          of subparagraph (A), by striking the period at the end  
13          of subparagraph (B) and inserting “, and”, and by adding  
14          at the end the following new subparagraph:

15                         “(C) in the case of any taxable year begin-  
16                         ning in 2008, the real property tax deduction.”.

17          (b) DEFINITION.—Section 63(c) is amended by add-  
18          ing at the end the following new paragraph:

19                         “(7) REAL PROPERTY TAX DEDUCTION.—For  
20                         purposes of paragraph (1), the real property tax de-  
21                         duction is the lesser of—

22                                 “(A) the amount allowable as a deduction  
23                                 under this chapter for State and local taxes de-  
24                                 scribed in section 164(a)(1), or

1                   “(B) \$350 (\$700 in the case of a joint re-  
2                   turn).

3           Any taxes taken into account under section 62(a)  
4           shall not be taken into account under this para-  
5           graph.”.

6           (c) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to taxable years beginning after  
8           December 31, 2007.

9   **SEC. 302. REFUNDABLE CHILD CREDIT.**

10          (a) MODIFICATION OF THRESHOLD AMOUNT.—  
11          Clause (i) of section 24(d)(1)(B) is amended by inserting  
12          “(\$8,500 in the case of taxable years beginning in 2008)”  
13          after “\$10,000”.

14          (b) EFFECTIVE DATE.—The amendment made by  
15          subsection (a) shall apply to taxable years beginning after  
16          December 31, 2007.

17   **SEC. 303. INCREASE OF AMT REFUNDABLE CREDIT**  
18                   **AMOUNT FOR INDIVIDUALS WITH LONG-**  
19                   **TERM UNUSED CREDITS FOR PRIOR YEAR**  
20                   **MINIMUM TAX LIABILITY, ETC.**

21          (a) IN GENERAL.—Paragraph (2) of section 53(e) is  
22          amended to read as follows:

23                   “(2) AMT REFUNDABLE CREDIT AMOUNT.—  
24                   For purposes of paragraph (1), the term ‘AMT re-  
25                   fundable credit amount’ means, with respect to any

1 taxable year, the amount (not in excess of the long-  
2 term unused minimum tax credit for such taxable  
3 year) equal to the greater of—

4 “(A) 50 percent of the long-term unused  
5 minimum tax credit for such taxable year, or

6 “(B) the amount (if any) of the AMT re-  
7 fundable credit amount for the taxpayer’s pre-  
8 ceeding taxable year (determined without regard  
9 to subsection (f)(2)).”.

10 (b) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-  
11 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-  
12 MENT OF INCENTIVE STOCK OPTIONS.—Section 53 is  
13 amended by adding at the end the following new sub-  
14 section:

15 “(f) TREATMENT OF CERTAIN UNDERPAYMENTS, IN-  
16 TEREST, AND PENALTIES ATTRIBUTABLE TO THE TREAT-  
17 MENT OF INCENTIVE STOCK OPTIONS.—

18 “(1) ABATEMENT.—Any underpayment of tax  
19 outstanding on the date of the enactment of this  
20 subsection which is attributable to the application of  
21 section 56(b)(3) for any taxable year ending before  
22 January 1, 2008 (and any interest or penalty with  
23 respect to such underpayment which is outstanding  
24 on such date of enactment), is hereby abated. The

1 amount determined under subsection (b)(1) shall not  
2 include any tax abated under the preceding sentence.

3 “(2) INCREASE IN CREDIT FOR CERTAIN INTER-  
4 EST AND PENALTIES ALREADY PAID.—The AMT re-  
5 fundable credit amount for the taxpayer’s first 2  
6 taxable years beginning after December 31, 2007,  
7 shall each be increased by 50 percent of the aggre-  
8 gate amount of the interest and penalties which were  
9 paid by the taxpayer before the date of the enact-  
10 ment of this subsection and which would (but for  
11 such payment) have been abated under paragraph  
12 (1).”.

13 (c) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Except as provided in para-  
15 graph (2), the amendment made by this section shall  
16 apply to taxable years beginning after December 31,  
17 2007.

18 (2) ABATEMENT.—Section 53(f)(1) of the In-  
19 ternal Revenue Code of 1986, as added by sub-  
20 section (b), shall take effect on the date of the en-  
21 actment of this Act.

1           **Subtitle B—Business Related**  
2                           **Provisions**

3   **SEC. 311. UNIFORM TREATMENT OF ATTORNEY-ADVANCED**  
4                           **EXPENSES AND COURT COSTS IN CONTIN-**  
5                           **GENCY FEE CASES.**

6           (a) **IN GENERAL.**—Section 162 is amended by redess-  
7 ignating subsection (q) as subsection (r) and by inserting  
8 after subsection (p) the following new subsection:

9           “(q) **ATTORNEY-ADVANCED EXPENSES AND COURT**  
10 **COSTS IN CONTINGENCY FEE CASES.**—In the case of any  
11 expense or court cost which is paid or incurred in the  
12 course of the trade or business of practicing law and the  
13 repayment of which is contingent on a recovery by judg-  
14 ment or settlement in the action to which such expense  
15 or cost relates, the deduction under subsection (a) shall  
16 be determined as if such expense or cost was not subject  
17 to repayment.”.

18           (b) **EFFECTIVE DATE.**—The amendment made by  
19 this section shall apply to expenses and costs paid or in-  
20 curred in taxable years beginning after the date of the en-  
21 actment of this Act.

1 **SEC. 312. PROVISIONS RELATED TO FILM AND TELEVISION**  
2 **PRODUCTIONS.**

3 (a) MODIFICATION OF LIMITATION ON EXPENS-  
4 ING.—Subparagraph (A) of section 181(a)(2) is amended  
5 to read as follows:

6 “(A) IN GENERAL.—Paragraph (1) shall  
7 not apply to so much of the aggregate cost of  
8 any qualified film or television production as ex-  
9 ceeds \$15,000,000.”.

10 (b) MODIFICATIONS TO DEDUCTION FOR DOMESTIC  
11 ACTIVITIES.—

12 (1) DETERMINATION OF W-2 WAGES.—Para-  
13 graph (2) of section 199(b) is amended by adding at  
14 the end the following new subparagraph:

15 “(D) SPECIAL RULE FOR QUALIFIED  
16 FILM.—In the case of a qualified film, such  
17 term shall include compensation for services  
18 performed in the United States by actors, pro-  
19 duction personnel, directors, and producers.”.

20 (2) DEFINITION OF QUALIFIED FILM.—Para-  
21 graph (6) of section 199(e) is amended by adding at  
22 the end the following: “A qualified film shall include  
23 any copyrights, trademarks, or other intangibles  
24 with respect to such film. The methods and means  
25 of distributing a qualified film shall not affect the  
26 availability of the deduction under this section.”.

1           (3) PARTNERSHIPS.—Subparagraph (A) of sec-  
2           tion 199(d)(1) is amended by striking “and” at the  
3           end of clause (ii), by striking the period at the end  
4           of clause (iii) and inserting “, and”, and by adding  
5           at the end the following new clause:

6                     “(iv) in the case of each partner of a  
7                     partnership, or shareholder of an S cor-  
8                     poration, who owns (directly or indirectly)  
9                     at least 20 percent of the capital interests  
10                    in such partnership or of the stock of such  
11                    S corporation—

12                             “(I) such partner or shareholder  
13                             shall be treated as having engaged di-  
14                             rectly in any film produced by such  
15                             partnership or S corporation, and

16                             “(II) such partnership or S cor-  
17                             poration shall be treated as having en-  
18                             gaged directly in any film produced by  
19                             such partner or shareholder.”.

20           (c) EFFECTIVE DATE.—

21                     (1) IN GENERAL.—Except as otherwise pro-  
22                     vided in this subsection, the amendments made by  
23                     this section shall apply to taxable years beginning  
24                     after December 31, 2007.

1           (2) EXPENSING.—The amendments made by  
2           subsection (a) shall apply to qualified film and tele-  
3           vision productions commencing after December 31,  
4           2007.

5           **Subtitle C—Modification of Penalty**  
6           **on Understatement of Tax-**  
7           **payer’s Liability by Tax Return**  
8           **Preparer**

9           **SEC. 321. MODIFICATION OF PENALTY ON UNDERSTATE-**  
10           **MENT OF TAXPAYER’S LIABILITY BY TAX RE-**  
11           **TURN PREPARER.**

12           (a) IN GENERAL.—Subsection (a) of section 6694  
13           (relating to understatement due to unreasonable positions)  
14           is amended to read as follows:

15           “(a) UNDERSTATEMENT DUE TO UNREASONABLE  
16           POSITIONS.—

17           “(1) IN GENERAL.—If a tax return preparer—

18           “(A) prepares any return or claim of re-  
19           fund with respect to which any part of an un-  
20           derstatement of liability is due to a position de-  
21           scribed in paragraph (2), and

22           “(B) knew (or reasonably should have  
23           known) of the position,

24           such tax return preparer shall pay a penalty with re-  
25           spect to each such return or claim in an amount

1 equal to the greater of \$1,000 or 50 percent of the  
2 income derived (or to be derived) by the tax return  
3 preparer with respect to the return or claim.

4 “(2) UNREASONABLE POSITION.—

5 “(A) IN GENERAL.—Except as otherwise  
6 provided in this paragraph, a position is de-  
7 scribed in this paragraph unless there is or was  
8 substantial authority for the position.

9 “(B) DISCLOSED POSITIONS.—If the posi-  
10 tion was disclosed as provided in section  
11 6662(d)(2)(B)(ii)(I) and is not a position to  
12 which subparagraph (C) applies, the position is  
13 described in this paragraph unless there is a  
14 reasonable basis for the position.

15 “(C) TAX SHELTERS AND REPORTABLE  
16 TRANSACTIONS.—If the position is with respect  
17 to a tax shelter (as defined in section  
18 6662(d)(2)(C)(ii)) or a reportable transaction  
19 to which section 6662A applies, the position is  
20 described in this paragraph unless it is reason-  
21 able to believe that the position would more  
22 likely than not be sustained on its merits.

23 “(3) REASONABLE CAUSE EXCEPTION.—No  
24 penalty shall be imposed under this subsection if it  
25 is shown that there is reasonable cause for the un-

1 derstatement and the tax return preparer acted in  
2 good faith.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall apply—

5 (1) in the case of a position other than a posi-  
6 tion described in subparagraph (C) of section  
7 6694(a)(2) of the Internal Revenue Code of 1986  
8 (as amended by this section), to returns prepared  
9 after May 25, 2007, and

10 (2) in the case of a position described in such  
11 subparagraph (C), to returns prepared for taxable  
12 years ending after the date of the enactment of this  
13 Act.

14 **Subtitle D—Extension and Expan-**  
15 **sion of Certain GO Zone Incen-**  
16 **tives**

17 **SEC. 331. CERTAIN GO ZONE INCENTIVES.**

18 (a) **USE OF AMENDED INCOME TAX RETURNS TO**  
19 **TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-**  
20 **RELATED CASUALTY LOSS GRANTS BY DISALLOWING**  
21 **PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.**—

22 (1) **IN GENERAL.**—Notwithstanding any other  
23 provision of the Internal Revenue Code of 1986, if  
24 a taxpayer claims a deduction for any taxable year  
25 with respect to a casualty loss to a principal resi-

1        dence (within the meaning of section 121 of such  
2        Code) resulting from Hurricane Katrina, Hurricane  
3        Rita, or Hurricane Wilma and in a subsequent tax-  
4        able year receives a grant under Public Law 109-  
5        148, 109-234, or 110-116 as reimbursement for  
6        such loss, such taxpayer may elect to file an amend-  
7        ed income tax return for the taxable year in which  
8        such deduction was allowed (and for any taxable  
9        year to which such deduction is carried) and reduce  
10       (but not below zero) the amount of such deduction  
11       by the amount of such reimbursement.

12            (2) TIME OF FILING AMENDED RETURN.—  
13        Paragraph (1) shall apply with respect to any grant  
14        only if any amended income tax returns with respect  
15        to such grant are filed not later than the later of—

16            (A) the due date for filing the tax return  
17            for the taxable year in which the taxpayer re-  
18            ceives such grant, or

19            (B) the date which is 1 year after the date  
20            of the enactment of this Act.

21            (3) WAIVER OF PENALTIES AND INTEREST.—  
22        Any underpayment of tax resulting from the reduc-  
23        tion under paragraph (1) of the amount otherwise  
24        allowable as a deduction shall not be subject to any  
25        penalty or interest under such Code if such tax is

1       paid not later than 1 year after the filing of the  
2       amended return to which such reduction relates.

3       (b) WAIVER OF DEADLINE ON CONSTRUCTION OF  
4 GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.—  
5 TION.—

6           (1) IN GENERAL.—Subparagraph (B) of section  
7 1400N(d)(3) is amended to read as follows:

8                   “(B) without regard to ‘and before Janu-  
9                   ary 1, 2009’ in clause (i) thereof,”.

10          (2) EFFECTIVE DATE.—The amendment made  
11 by this subsection shall apply to property placed in  
12 service after December 31, 2007.

13       (c) INCLUSION OF CERTAIN COUNTIES IN GULF OP-  
14 PORTUNITY ZONE FOR PURPOSES OF TAX-EXEMPT BOND  
15 FINANCING.—

16           (1) IN GENERAL.—Subsection (a) of section  
17 1400N is amended by adding at the end the fol-  
18 lowing new paragraph:

19                   “(8) INCLUSION OF CERTAIN COUNTIES.—For  
20 purposes of this subsection, the Gulf Opportunity  
21 Zone includes Colbert County, Alabama and Dallas  
22 County, Alabama.”.

23          (2) EFFECTIVE DATE.—The amendment made  
24 by this subsection shall take effect as if included in

1 the provisions of the Gulf Opportunity Zone Act of  
2 2005 to which it relates.

### 3 **TITLE II—REVENUE PROVISIONS**

#### 4 **SEC. 401. NONQUALIFIED DEFERRED COMPENSATION** 5 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

6 (a) IN GENERAL.—Subpart B of part II of sub-  
7 chapter E of chapter 1 is amended by inserting after sec-  
8 tion 457 the following new section:

#### 9 **“SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION** 10 **FROM CERTAIN TAX INDIFFERENT PARTIES.**

11 “(a) IN GENERAL.—Any compensation which is de-  
12 ferred under a nonqualified deferred compensation plan of  
13 a nonqualified entity shall be includible in gross income  
14 when there is no substantial risk of forfeiture of the rights  
15 to such compensation.

16 “(b) NONQUALIFIED ENTITY.—For purposes of this  
17 section, the term ‘nonqualified entity’ means—

18 “(1) any foreign corporation unless substan-  
19 tially all of its income is—

20 “(A) effectively connected with the conduct  
21 of a trade or business in the United States, or

22 “(B) subject to a comprehensive foreign in-  
23 come tax, and

24 “(2) any partnership unless substantially all of  
25 its income is allocated to persons other than—

1           “(A) foreign persons with respect to whom  
2           such income is not subject to a comprehensive  
3           foreign income tax, and

4           “(B) organizations which are exempt from  
5           tax under this title.

6           “(c) DETERMINABILITY OF AMOUNTS OF COMPENSA-  
7           TION.—

8           “(1) IN GENERAL.—If the amount of any com-  
9           pensation is not determinable at the time that such  
10          compensation is otherwise includible in gross income  
11          under subsection (a)—

12           “(A) such amount shall be so includible in  
13           gross income when determinable, and

14           “(B) the tax imposed under this chapter  
15           for the taxable year in which such compensation  
16           is includible in gross income shall be increased  
17           by the sum of—

18           “(i) the amount of interest determined  
19           under paragraph (2), and

20           “(ii) an amount equal to 20 percent of  
21           the amount of such compensation.

22           “(2) INTEREST.—For purposes of paragraph  
23           (1)(B)(i), the interest determined under this para-  
24           graph for any taxable year is the amount of interest  
25           at the underpayment rate under section 6621 plus

1       1 percentage point on the underpayments that would  
2       have occurred had the deferred compensation been  
3       includible in gross income for the taxable year in  
4       which first deferred or, if later, the first taxable year  
5       in which such deferred compensation is not subject  
6       to a substantial risk of forfeiture.

7       “(d) OTHER DEFINITIONS AND SPECIAL RULES.—  
8       For purposes of this section—

9               “(1) SUBSTANTIAL RISK OF FORFEITURE.—

10                       “(A) IN GENERAL.—The rights of a person  
11                       to compensation shall be treated as subject to  
12                       a substantial risk of forfeiture only if such per-  
13                       son’s rights to such compensation are condi-  
14                       tioned upon the future performance of substan-  
15                       tial services by any individual.

16                       “(B) EXCEPTION FOR COMPENSATION  
17                       BASED ON GAIN RECOGNIZED ON AN INVEST-  
18                       MENT ASSET.—

19                               “(i) IN GENERAL.—To the extent pro-  
20                               vided in regulations prescribed by the Sec-  
21                               retary, if compensation is determined solely  
22                               by reference to the amount of gain recog-  
23                               nized on the disposition of an investment  
24                               asset, such compensation shall be treated

1 as subject to a substantial risk of for-  
2 feiture until the date of such disposition.

3 “(ii) INVESTMENT ASSET.—For pur-  
4 poses of clause (i), the term ‘investment  
5 asset’ means any single asset (other than  
6 an investment fund or similar entity)—

7 “(I) acquired directly by an in-  
8 vestment fund or similar entity,

9 “(II) with respect to which such  
10 entity does not (nor does any person  
11 related to such entity) participate in  
12 the active management of such asset  
13 (or if such asset is an interest in an  
14 entity, in the active management of  
15 the activities of such entity), and

16 “(III) substantially all of any  
17 gain on the disposition of which (other  
18 than such deferred compensation) is  
19 allocated to investors in such entity.

20 “(iii) COORDINATION WITH SPECIAL  
21 RULE.—Paragraph (3)(B) shall not apply  
22 to any compensation to which clause (i)  
23 applies.

24 “(2) COMPREHENSIVE FOREIGN INCOME TAX.—

25 The term ‘comprehensive foreign income tax’ means,

1 with respect to any foreign person, the income tax  
2 of a foreign country if—

3 “(A) such person is eligible for the benefits  
4 of a comprehensive income tax treaty between  
5 such foreign country and the United States, or

6 “(B) such person demonstrates to the sat-  
7 isfaction of the Secretary that such foreign  
8 country has a comprehensive income tax.

9 “(3) NONQUALIFIED DEFERRED COMPENSA-  
10 TION PLAN.—

11 “(A) IN GENERAL.—The term ‘non-  
12 qualified deferred compensation plan’ has the  
13 meaning given such term under section  
14 409A(d), except that such term shall include  
15 any plan that provides a right to compensation  
16 based on the appreciation in value of a specified  
17 number of equity units of the service recipient.

18 “(B) EXCEPTION.—Compensation shall  
19 not be treated as deferred for purposes of this  
20 section if the service provider receives payment  
21 of such compensation not later than 12 months  
22 after the end of the taxable year of the service  
23 recipient during which the right to the payment  
24 of such compensation is no longer subject to a  
25 substantial risk of forfeiture.

1           “(4) EXCEPTION FOR CERTAIN COMPENSATION  
2           WITH RESPECT TO EFFECTIVELY CONNECTED IN-  
3           COME.—In the case a foreign corporation with in-  
4           come which is taxable under section 882, this section  
5           shall not apply to compensation which, had such  
6           compensation had been paid in cash on the date that  
7           such compensation ceased to be subject to a sub-  
8           stantial risk of forfeiture, would have been deduct-  
9           ible by such foreign corporation against such income.

10           “(5) APPLICATION OF RULES.—Rules similar to  
11           the rules of paragraphs (5) and (6) of section  
12           409A(d) shall apply.

13           “(e) REGULATIONS.—The Secretary shall prescribe  
14           such regulations as may be necessary or appropriate to  
15           carry out the purposes of this section, including regula-  
16           tions disregarding a substantial risk of forfeiture in cases  
17           where necessary to carry out the purposes of this sec-  
18           tion.”.

19           (b) CONFORMING AMENDMENT.—Section 26(b)(2) is  
20           amended by striking “and” at the end of subparagraph  
21           (U), by striking the period at the end of subparagraph  
22           (V) and inserting “, and”, and by adding at the end the  
23           following new subparagraph:

24                           “(W) section 457A(c)(1)(B) (relating to  
25                           determinability of amounts of compensation).”.

1 (c) CLERICAL AMENDMENT.—The table of sections  
2 of subpart B of part II of subchapter E of chapter 1 is  
3 amended by inserting after the item relating to section  
4 457 the following new item:

“Sec. 457A. Nonqualified deferred compensation from certain tax indifferent parties.”.

5 (d) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as otherwise pro-  
7 vided in this subsection, the amendments made by  
8 this section shall apply to amounts deferred which  
9 are attributable to services performed after Decem-  
10 ber 31, 2008.

11 (2) APPLICATION TO EXISTING DEFERRALS.—  
12 In the case of any amount deferred to which the  
13 amendments made by this section do not apply solely  
14 by reason of the fact that the amount is attributable  
15 to services performed before January 1, 2009, to the  
16 extent such amount is not includible in gross income  
17 in a taxable year beginning before 2018, such  
18 amounts shall be includible in gross income in the  
19 later of—

20 (A) the last taxable year beginning before  
21 2018, or

22 (B) the taxable year in which there is no  
23 substantial risk of forfeiture of the rights to  
24 such compensation (determined in the same

1 manner as determined for purposes of section  
2 457A of the Internal Revenue Code of 1986, as  
3 added by this section).

4 (3) CHARITABLE CONTRIBUTIONS OF EXISTING  
5 DEFERRALS PERMITTED.—

6 (A) IN GENERAL.—Notwithstanding sec-  
7 tion 170(b) of the Internal Revenue Code of  
8 1986, any qualified contribution shall be al-  
9 lowed as a deduction under section 170 of such  
10 Code for the taxpayer’s last taxable year begin-  
11 ning before 2018 to the extent the aggregate of  
12 such contributions made during such taxable  
13 year does not exceed the excess of the qualified  
14 inclusion amount over the amount of the deduc-  
15 tion for all other charitable contributions allow-  
16 able under section 170 of such Code for such  
17 taxable year. Proper adjustments shall be made  
18 under section 170(d) to take account of the pre-  
19 ceding sentence.

20 (B) QUALIFIED CONTRIBUTION.—For pur-  
21 poses of this paragraph, the term “qualified  
22 contribution” means any charitable contribution  
23 (as defined in section 170(c) of such Code)  
24 made during taxpayer’s last taxable year begin-  
25 ning before 2018 if such contribution is paid in

1 cash to an organization described in section  
2 170(b)(1)(A) of such Code (other than any or-  
3 ganization described in section 509(a)(3) of  
4 such Code or any fund or account described in  
5 section 4966(d)(2) of such Code).

6 (C) QUALIFIED INCLUSION AMOUNT.—For  
7 purposes of this paragraph, the term “qualified  
8 inclusion amount” means the amount includible  
9 in the taxpayer’s gross income for the last tax-  
10 able year beginning before 2018 by reason of  
11 paragraph (2).

12 (4) ACCELERATED PAYMENTS.—No later than  
13 120 days after the date of the enactment of this Act,  
14 the Secretary shall issue guidance providing a lim-  
15 ited period of time during which a nonqualified de-  
16 ferred compensation arrangement attributable to  
17 services performed on or before December 31, 2008,  
18 may, without violating the requirements of section  
19 409A(a) of the Internal Revenue Code of 1986, be  
20 amended to conform the date of distribution to the  
21 date the amounts are required to be included in in-  
22 come.

23 (5) CERTAIN BACK-TO-BACK ARRANGEMENTS.—  
24 If the taxpayer is also a service recipient and main-  
25 tains one or more nonqualified deferred compensa-

1       tion arrangements for its service providers under  
2       which any amount is attributable to services per-  
3       formed on or before December 31, 2008, the guid-  
4       ance issued under paragraph (4) shall permit such  
5       arrangements to be amended to conform the dates of  
6       distribution under such arrangement to the date  
7       amounts are required to be included in the income  
8       of such taxpayer under this subsection.

9               (6) ACCELERATED PAYMENT NOT TREATED AS  
10       MATERIAL MODIFICATION.—Any amendment to a  
11       nonqualified deferred compensation arrangement  
12       made pursuant to paragraph (4) or (5) shall not be  
13       treated as a material modification of the arrange-  
14       ment for purposes of section 409A of the Internal  
15       Revenue Code of 1986.

16 **SEC. 402. DELAY IN APPLICATION OF WORLDWIDE ALLOCA-**  
17 **TION OF INTEREST.**

18       (a) IN GENERAL.—Paragraphs (5)(D) and (6) of sec-  
19       tion 864(f) are each amended by striking “December 31,  
20       2008” and inserting “December 31, 2018”.

21       (b) EFFECTIVE DATE.—The amendments made by  
22       this section shall apply to taxable years beginning after  
23       December 31, 2008.

1 **SEC. 403. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
2 **TAXES.**

3 (a) **REPEAL OF ADJUSTMENT FOR 2012.**—Subpara-  
4 graph (B) of section 401(1) of the Tax Increase Preven-  
5 tion and Reconciliation Act of 2005 is amended by striking  
6 the percentage contained therein and inserting “100 per-  
7 cent”.

8 (b) **MODIFICATION OF ADJUSTMENT FOR 2013.**—  
9 The percentage under subparagraph (C) of section 401(1)  
10 of the Tax Increase Prevention and Reconciliation Act of  
11 2005 in effect on the date of the enactment of this Act  
12 is increased by 36.75 percentage points.

